

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

IN THE MATTER OF DISTRIBUTION OF WATER
TO VARIOUS WATER RIGHTS HELD BY OR FOR
THE BENEFIT OF A&B IRRIGATION DISTRICT,
AMERICAN FALLS RESERVOIR DISTRICT #2,
BURLEY IRRIGATION DISTRICT, MILNER
IRRIGATION DISTRICT, MINIDOKA IRRIGATION
DISTRICT, NORTH SIDE CANAL COMPANY,
AND TWIN FALLS CANAL COMPANY

Docket No. CM-DC-2010-001

**FINAL ORDER REGARDING
APRIL 2026 FORECAST
SUPPLY**

(METHODOLOGY STEPS 1–3)

FINDINGS OF FACT

1. On July 19, 2023, the Idaho Department of Water Resources (“Department”) issued its *Sixth Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* (“*Methodology Order*”). The *Methodology Order* established nine steps for determining material injury to members of the Surface Water Coalition (“SWC”). This order applies steps 1, 2, and 3 of the *Methodology Order*.¹

A. Step 1

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

3. On February 17, 2026, Minidoka Irrigation District (“Minidoka”) submitted its electronic shapefile delineating its total irrigated acres to the Department.

4. On March 27, 2026, the Department received a letter from A&B Irrigation District (“A&B”), Burley Irrigation District (“BID”), Milner Irrigation District (“Milner”), North Side Canal Company (“NSCC”), and Twin Falls Canal Company (“TFCC”). In the letter, A&B, BID, Milner, and NSCC confirmed that their total number of irrigated acres for 2026 will not vary by more than five percent from the electronic shapefiles submitted in prior years. With the letter, TFCC submitted an electronic shapefile delineating its total irrigated acres.

¹ Shortly after the *Methodology Order* was issued, the City of Pocatello, the City of Idaho Falls, and the Coalition of Cities (collectively “Cities”) and the Idaho Ground Water Appropriators, Inc. (“IGWA”) filed petitions for judicial review in Ada County (Nos. CV01-23-13238 and CV01-23-13173). IGWA’s petition for judicial review is stayed until December 31, 2027. The Idaho Supreme Court dismissed the Cities’ petition for lack of jurisdiction, but the matter is still pending on a petition for rehearing. The filing of a petition for judicial review does not stay the effectiveness of an order. I.C. § 67-5274. No party to the judicial review proceedings has requested a stay of the *Methodology Order*. Accordingly, the Director will apply the *Methodology Order* in this order.

5. On April 8th, 2026, the Department received a letter from American Falls Reservoir District #2 (“AFRD2”), stating that its total number of irrigated acres has not varied by more than five percent.

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

	Total Irrigated Acres ²	Data Source
A&B	14,749 ³	SRBA Partial Decree
AFRD2	62,361	SRBA Partial Decree
BID	46,035	2013 shapefile submitted by BID, reduced by the Department for overlapping acres and acres outside of service area.
Milner	13,264	2010 service area shapefile, reduced by the Department for overlapping acres and acres outside of service area.
Minidoka	73,825	2026 shapefile submitted by Minidoka, reduced by the Department for overlapping acres and acres outside of the service area.
NSCC	154,067	SRBA Partial Decree
TFCC	193,638	2026 shapefile submitted by TFCC, reduced by the Department for overlapping acres and acres outside of service area. ⁴

B. Step 2

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

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

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

⁴ On April 10, 2026, the Cities filed *Cities’ Motion to Consider Information When Determining Surface Water Coalition’s Irrigated Acres Under Methodology Step 1 (“Motion”)*. In that motion, they ask the Director to consider the information contained in a technical memorandum prepared by the Cities’ consultants when determining TFCC’s total irrigated acres in this order. *Motion*, at 2. The motion was filed only days before the deadline for this order, leaving the Department insufficient time to evaluate its merits. The Director may revisit, and if appropriate, modify TFCC’s total irrigated acres in orders issued later this irrigation season.

8. On April 2, 2026, the USBR and USACE issued their joint forecast (“Joint Forecast”), predicting an unregulated inflow of 2,300,000 acre-feet at the Snake River near Heise gage for the period of April through July. The forecasted flow volume equates to 70% percent of the average.⁵ The Joint Forecast “is generally as accurate a forecast as is possible using current data gathering and forecasting techniques.” *Id.* ¶ 49, at 19 (citation omitted).

9. The April–July Heise natural flow data from the years 1990–2025 were data inputs for the development of regression equations for A&B and Milner to predict the natural flow supply.⁶ Data greater or less than two standard deviations from the average were excluded from the regression development.

10. The April–July Heise natural flow data from the years 1990–2025 and Box Canyon November–March total discharge data for the period 1989–2025, were data inputs for the development of multiple linear regression equations to predict the natural flow supplies for AFRD2, BID, Minidoka, NSCC, and TFCC. *Methodology Order* ¶ 49, at 19. The U.S. Geological Survey measures and monitors the flow at the Box Canyon stream flow measurement gage. The Box Canyon November–March total discharge used by the Director in the 2026 regression models totaled 93,824 acre-feet.

11. The storage allocations were predicted for each SWC member. As of April 6, 2026, Water District No. 1’s preliminary water right accounting indicates water rights for Jackson Lake 1906, Lake Walcott, Jackson Lake 1910, Palisades Winter Water Savings, Island Park 1921, American Falls Winter Water Savings, and Henrys Lake 1965 are satisfied. The remaining reservoir rights are 838,546 acre-feet short of satisfaction. Based on a comparison of the current Heise natural flow forecast to the analog years of 2002, 2004, 2013, and 2021, the Director anticipates the remaining reservoir water rights for Jackson Lake and Palisades will be 48-87% satisfied, and each SWC member will receive 90-100% of their allocation. The storage allocations are based on the anticipated allocations minus evaporation charges.

⁵ The average is based on the years 1991–2020. The Joint Forecast relies on a “30-Year Climate Normal” to calculate an average April through July runoff volume.

⁶ Attached hereto, as Attachment A, are the regression analyses for each SWC entity used to predict natural flow supply.

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

	Predicted Natural Flow Supply	Predicted Storage Allocation	Minidoka Credit Adjustment	Total Forecast Supply	Baseline Demand (BLY 2018)	In-Season Demand Shortfall
A&B	1,693	120,313		122,006	64,192	0
AFRD2	31,003	383,024	1,000	415,027	458,890	43,900
BID	72,555	217,257	5,130	294,942	262,211	0
Milner	4,568	79,513		84,081	58,417	0
Minidoka	98,553	341,646	8,370	448,569	354,851	0
NSCC	279,289	821,048	-7,750	1,092,587	1,026,661	0
TFCC	757,715	233,029	-6,750	983,994	1,121,717	137,700
Total Predicted April In-Season Demand Shortfall (AF)						181,600

C. Step 3

13. Step 3 requires the following:

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

Methodology Order ¶ 4, at 42.

14. The predicted April IDS for AFRD2 is 43,900 acre-feet and TFCC is 137,700 acre-feet. The total predicted April IDS is 181,600 acre-feet.

15. The Eastern Snake Plain Aquifer Model (“ESPAM”) is used to predict the junior priority water rights that must be curtailed to produce the volume of water equal to the predicted April IDS in the near Blackfoot to Minidoka reach. The ESPAM is updated periodically as new field measurements and advancements in modeling technology become available. ESPAM Version 2.2 (“ESPAM2.2”) is the latest model version.⁷

⁷ The Department finalized ESPAM2.2 model documentation reports (including a model calibration report, a predictive uncertainty analysis, a superposition model scenario, and a curtailment scenario) on May 27, 2021. See Idaho Dep’t of Water Res., *ESPAM2.2 Reports* (2021), [https:// research.idwr.idaho.gov/files/projects/espam/browse/ESPAM22_Reports/](https://research.idwr.idaho.gov/files/projects/espam/browse/ESPAM22_Reports/).

16. The Department ran ESPAM2.2 to predict the junior priority water rights within the area of common ground water supply (“ACGWS”) that must be curtailed to produce the volume of water equal to the predicted April IDS between May 1 and September 30 of this irrigation season pursuant to the *Methodology Order*. The ESPAM2.2 simulation calculated the curtailment of ground water rights bearing priority dates junior to October 11, 1900, will produce a volume of water of 94,000 acre-feet in the near Blackfoot to Minidoka reach between May 1 and September 30 of this irrigation season. The predicted benefit of the curtailment is less than the April IDS of 181,600 acre-feet. Curtailing ground water rights bearing priority dates junior to October 11, 1900, will offset as much of the April IDS as possible.

CONCLUSIONS OF LAW

1. The Fifth Judicial District Court, in and for the County of Minidoka, held that the evidentiary standard of proof to apply in conjunctive administration of hydraulically connected water rights is clear and convincing. *See Mem. Decision & Order on Pets. for Jud. Rev., A&B Irr. Dist., Inc. v. Idaho Dep’t of Water Res.*, No. CV-2009-647 (Minidoka Cnty. Dist. Ct. Idaho May 4, 2010); *Mem. Decision & Order on Pets. for Reh’g, A&B Irr. Dist., Inc. v. Idaho Dep’t of Water Res.*, No. CV-2009-647 (Minidoka Cnty. Dist. Ct. Idaho Nov. 2, 2010).

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

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

4. In 2026, the Director has sufficient information to quantify the irrigated areas for each of the SWC members as required by Step 1.

5. The USBR-USACE April Joint Forecast predicts an unregulated inflow of 2,300,000 acre-feet at the Snake River near Heise gage from April to July. The forecasted volume equates to 70% of the average.

6. The predicted April IDS is 181,600 acre-feet. Junior ground water users holding consumptive water rights bearing priority dates junior to October 11, 1900, within the Eastern Snake Plain Aquifer ACGWS must mitigate for their proportionate share of the predicted April IDS in accordance with an approved mitigation plan.⁸ Junior ground water users mitigating for their proportionate share of the predicted April IDS with a secured volume of water pursuant to an approved mitigation plan must, to the satisfaction of the Director, secure their proportionate share for delivery to the injured members of the SWC on or before May 1, 2026. There was a reasonable carryover shortfall of 86,756 acre-feet in the fall of 2025. However, because junior ground water users did not secure any mitigation water for a carryover shortfall, there is no adjustment to the mitigation obligation.

7. If, on or before May 1, 2026, ground water users holding consumptive water rights bearing priority dates junior to October 11, 1900, within the Eastern Snake Plain Aquifer ACGWS⁹ fail to establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted April IDS of 181,600 acre-feet in accordance with an approved mitigation plan, the Director will issue an order curtailing the junior-priority ground water user. Junior ground water users who are mitigating with a secured volume of water are not required to assign the secured volume of water until after the Director issues a subsequent order requiring the assignment of the water.

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

⁸ There are five approved mitigation plans responding to the SWC delivery call, each is stipulated to by the SWC: (1) No. CM-MP-2015-003 for the benefit of A&B; (2) No. CM-MP-2010-001 for the benefit of Southwest Irrigation District and Goose Creek Irrigation District (collectively, "SWID"); (3) No. CM-MP-2024-003 for the benefit of the Ground Water Districts; (4) No. CM-MP-2019-001 for the benefit of the Coalition of Cities; and (5) No. CM-MP-2007-001 for the benefit of the Water Mitigation Coalition. Given the nature of certain plans, the Department must calculate the proportionate share of the predicted IDS. With regard to A&B's mitigation plan, A&B's proportionate share of the predicted April IDS of 181,600 acre-feet is 10,800 acre-feet. Due to the nature of the mitigation plans for SWID, the Ground Water Districts, the Coalition of Cities, and the Water Mitigation Coalition, these entities do not need to establish that they can mitigate for their proportionate share of the predicted IDS.


⁹ On June 28, 2024, the Director issued an order declaring that ground water rights that were to be newly included in the ESPA ACGWS starting July 1, 2024, due to the passage of Senate Bill 1341, would not be subject to administration until November 1, 2025. *Order Re. Mid-Season Change to Area of Common Ground Water Supply for E. Snake Plain Aquifer; 3d Order Am. Curtailment List*, at 4; see S.B. 1341, 67th Leg., 2d Reg. Sess. (Idaho 2024) (enacted as I.C. § 42-233c). Accordingly, ground water users holding consumptive water rights bearing priority dates junior to October 11, 1900, that were included in the ESPA ACGWS due to the passage of Senate Bill 1341 are subject to administration at this time continuing indefinitely into the future and are required to establish that they can mitigate for their proportionate share of the predicted April IDS. In late 2025 and early 2026, the Director expanded the ESPA ACGWS to include the Raft River tributary basin and the remainder of the Little Lost River and Big Lost River tributary basins not already included in the ACGWS. On February 2, 2026, the Director issued an order declaring that ground water users included in the ESPA ACGWS in late 2025 and early 2026 would not be subject to administration before April 1, 2027. *Order Phasing in Administration of Ground Water Rights Recently Included in the ESPA ACGWS*, at 2. Accordingly, at this time, ground water users in the Raft River tributary basin and the remainder of the Little Lost River and Big Lost River tributary basins who were newly included into the ESPA ACGWS and hold consumptive water rights bearing priority dates junior to October 11, 1900, are not subject to administration.

ORDER

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

The Director predicts an April IDS of 181,600 acre-feet. On or before May 1, 2026, ground water users holding consumptive water rights bearing priority dates junior to October 11, 1900, within the Eastern Snake Plain Aquifer ACGWS shall establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted April IDS of 181,600 acre-feet in accordance with an approved mitigation plan. If a junior ground water user cannot establish, to the satisfaction of the Director, that they can mitigate for their proportionate share of the predicted April IDS in accordance with an approved mitigation plan, the Director will issue an order curtailing the junior-priority ground water user.

Dated this 16th day of April 2026.



MATHEW WEAVER
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of April 2026, the above and foregoing, was served by the method indicated below, and addressed to the following:

<p>John K. Simpson IdaH20, PLLC PO Box 152 Boise, ID 83701-0152 jks@idahowaters.com</p>	<p><input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input checked="" type="checkbox"/> Email</p>
<p>Travis L. Thompson Abby R. Bitzenburg PARSONS BEHLE & LATIMER PO Box 63 Twin Falls, ID 83303-0063 tthompson@parsonsbhleh.com abitzenburg@parsonsbhleh.com</p>	<p><input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input checked="" type="checkbox"/> Email</p>
<p>Norman M. Semanko Garrett M. Kitamura PARSONS BEHLE & LATIMER 800 W. Main Street, Suite 1300 Boise, Idaho 83702 nsemanko@parsonsbhleh.com gkitamura@parsonsbhleh.com</p>	<p><input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input checked="" type="checkbox"/> Email</p>
<p>Thomas J. Budge RACINE OLSON PO Box 1391 Pocatello, ID 83204-1391 tj@racineolson.com</p>	<p><input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input checked="" type="checkbox"/> Email</p>
<p>David W. Gehlert Natural Resources Section U.S. DOJ, Environment and Natural Resources Div. 999 18th St., South Terrace, Suite 370 Denver, CO 80202 david.gehlert@usdoj.gov</p>	<p><input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input checked="" type="checkbox"/> Email</p>
<p>Matt Howard US Bureau of Reclamation 1150 N Curtis Road Boise, ID 83706-1234 mhoward@usbr.gov</p>	<p><input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input checked="" type="checkbox"/> Email</p>
<p>Sarah A Klahn Maximilian C. Bricker Somach Simmons & Dunn 1155 Canyon Blvd, Ste. 110 Boulder, CO 80302 sklahn@somachlaw.com mbricker@somachlaw.com</p>	<p><input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input checked="" type="checkbox"/> Email</p>
<p>Rich Diehl City of Pocatello PO Box 4169 Pocatello, ID 83205 rdiehl@pocatello.us</p>	<p><input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input checked="" type="checkbox"/> Email</p>

Candice McHugh Chris Bromley MCHUGH BROMLEY, PLLC PO Box 107 Boise, ID 83701 cmchugh@mchughbromley.com cbromley@mchughbromley.com	<input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input checked="" type="checkbox"/> Email
Robert E. Williams WILLIAMS, MESERVY, & LOTH SPEICH, LLP PO Box 168 Jerome, ID 83338 rewilliams@wmlattys.com	<input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input checked="" type="checkbox"/> Email
Robert L. Harris HOLDEN, KIDWELL, HAHN & CRAPO, PLLC PO Box 50130 Idaho Falls, ID 83405 rharris@holdenlegal.com	<input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input checked="" type="checkbox"/> Email
Zachary H. Jones City Attorney, City of Idaho Falls PO Box 50220 Idaho Falls, ID 83405 zjones@idahofalls.gov	<input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input checked="" type="checkbox"/> Email
Skyler C. Johns Nathan M. Olsen Steven L. Taggart OLSEN TAGGART PLLC PO Box 3005 Idaho Falls, ID 83403 sjohns@olsentaggart.com nolsen@olsentaggart.com staggart@olsentaggart.com	<input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input checked="" type="checkbox"/> Email
Dylan Anderson DYLAN ANDERSON LAW PLLC PO Box 35 Rexburg, Idaho 83440 dylan@dylanandersonlaw.com	<input checked="" type="checkbox"/> U.S. Mail, postage prepaid <input checked="" type="checkbox"/> Email

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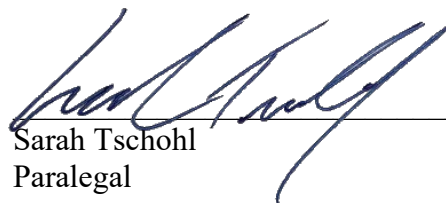
Craig Chandler
IDWR—Eastern Region
craig.chandler@idwr.idaho.gov

Corey Skinner
IDWR—Southern Region
corey.skinner@idwr.idaho.gov

William A. Parsons
PARSONS, LOVELAND, SHIRLEY & MILLER, LLP
wparsons@pmt.org
wparsons@magicvalley.law

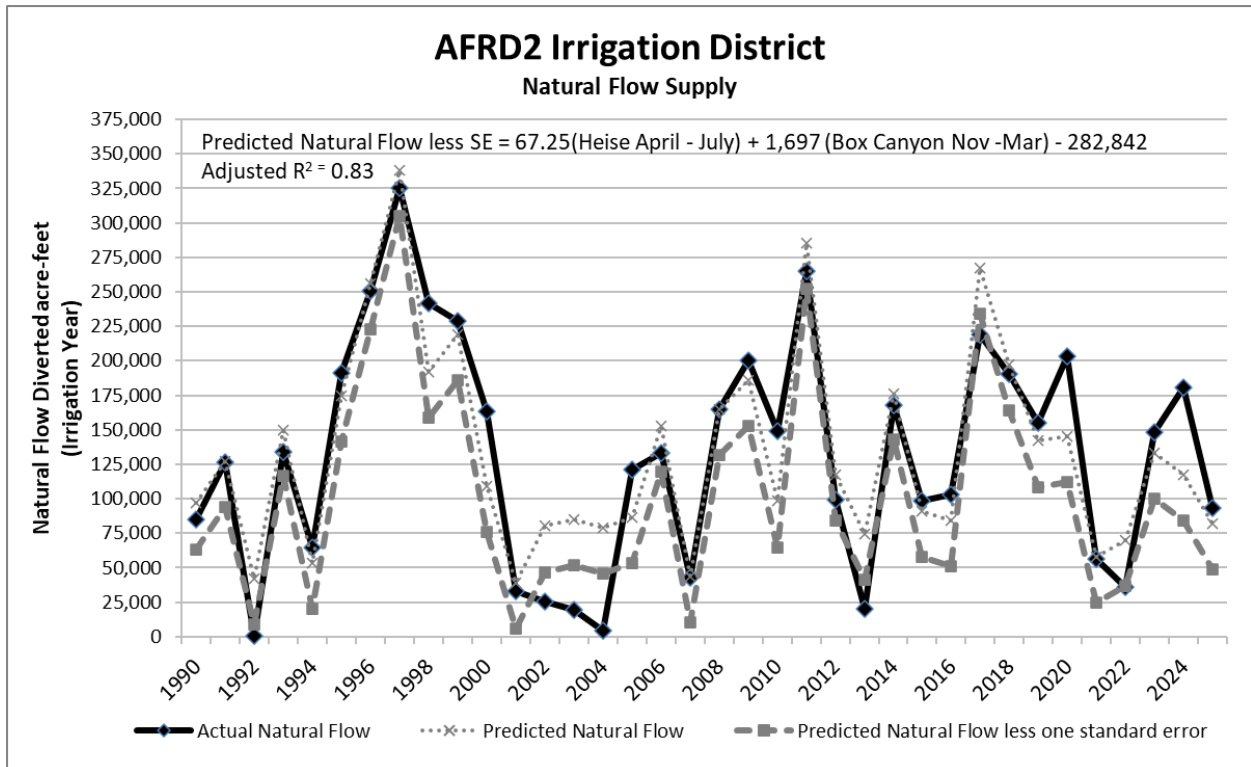
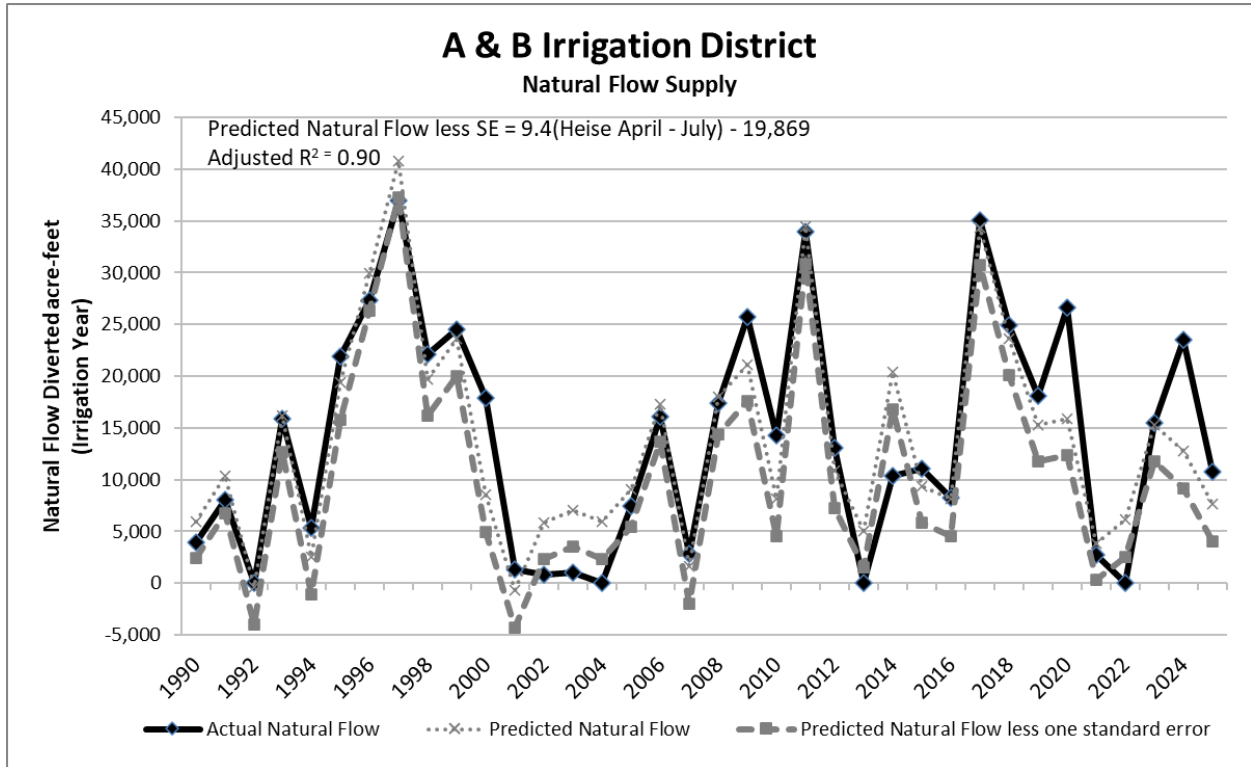
Jerry R. Rigby
Michelle Mortimer
RIGBY, ANDRUS & RIGBY LAW, PLLC
PO Box 250
Rexburg, ID 83440
jrigby@rex-law.com
mmortimer@rex-law.com

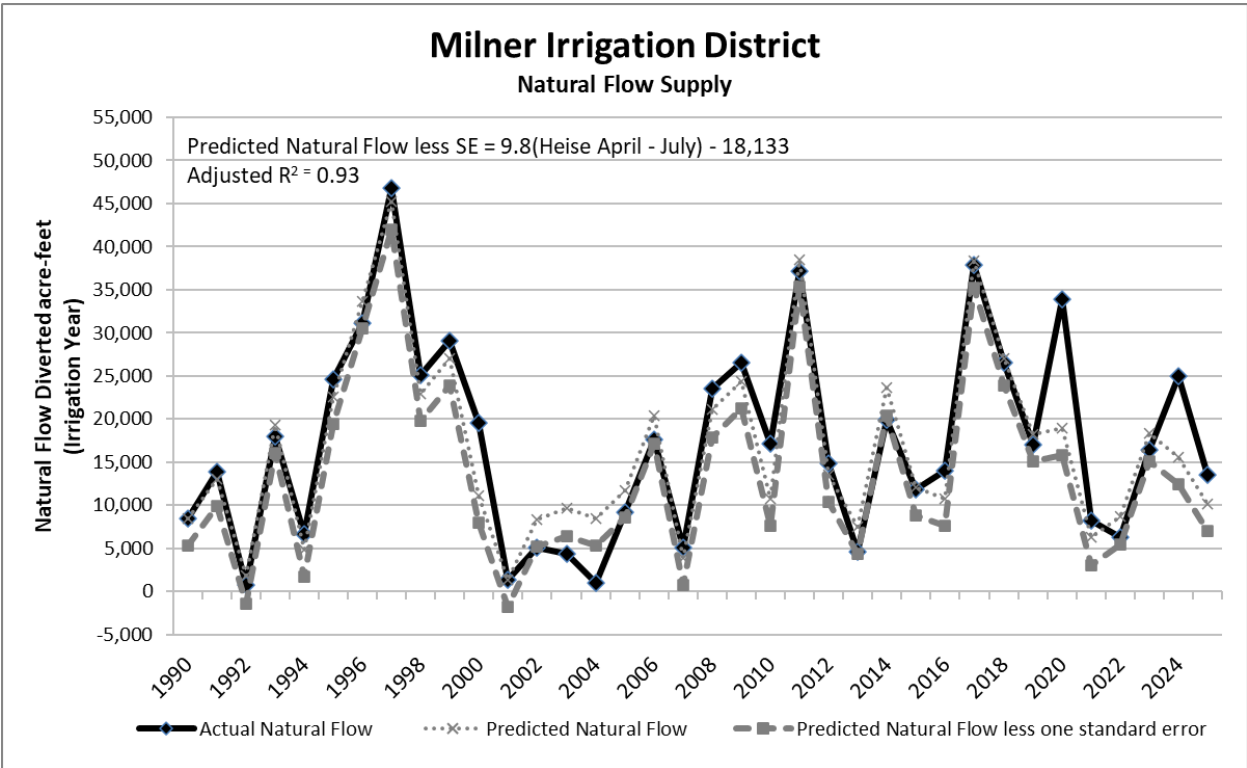
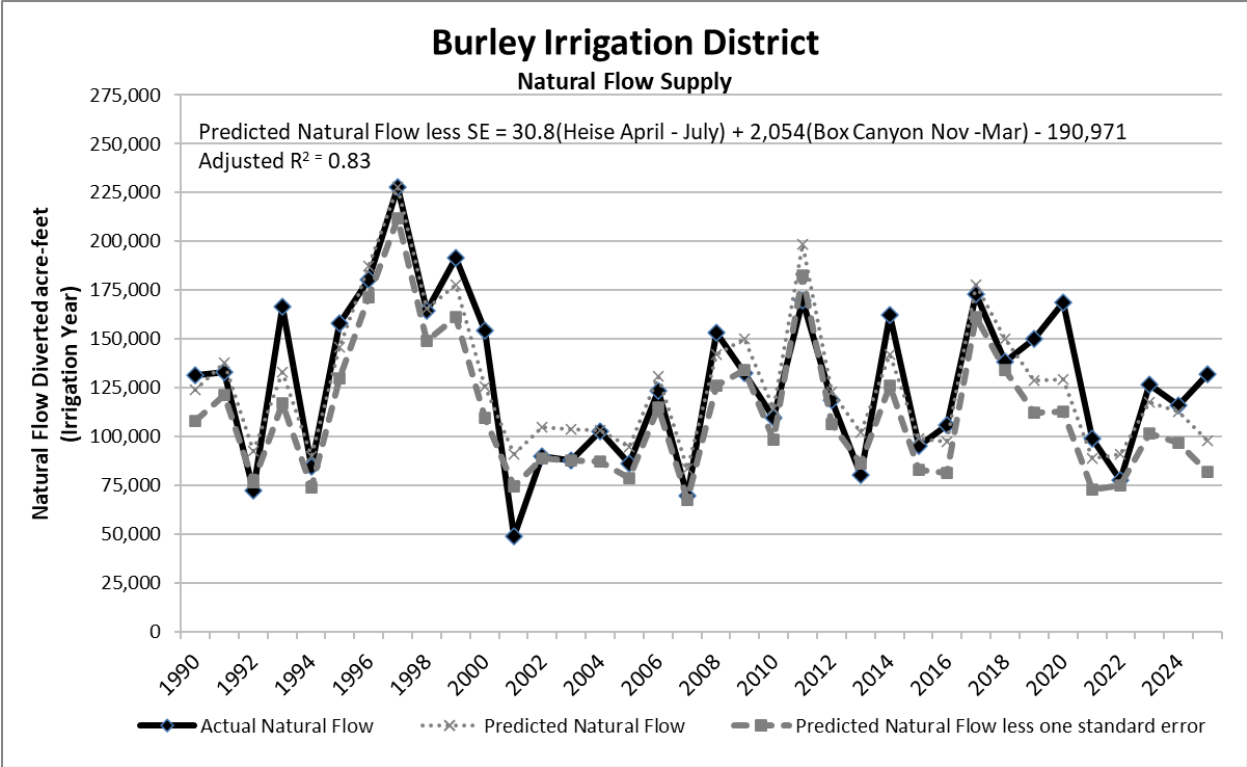
Andrew J. Waldera
SAWTOOTH LAW OFFICES, PLLC
1101 W. River Street, Suite 110
Boise, Idaho 83702
andy@sawtoothlaw.com

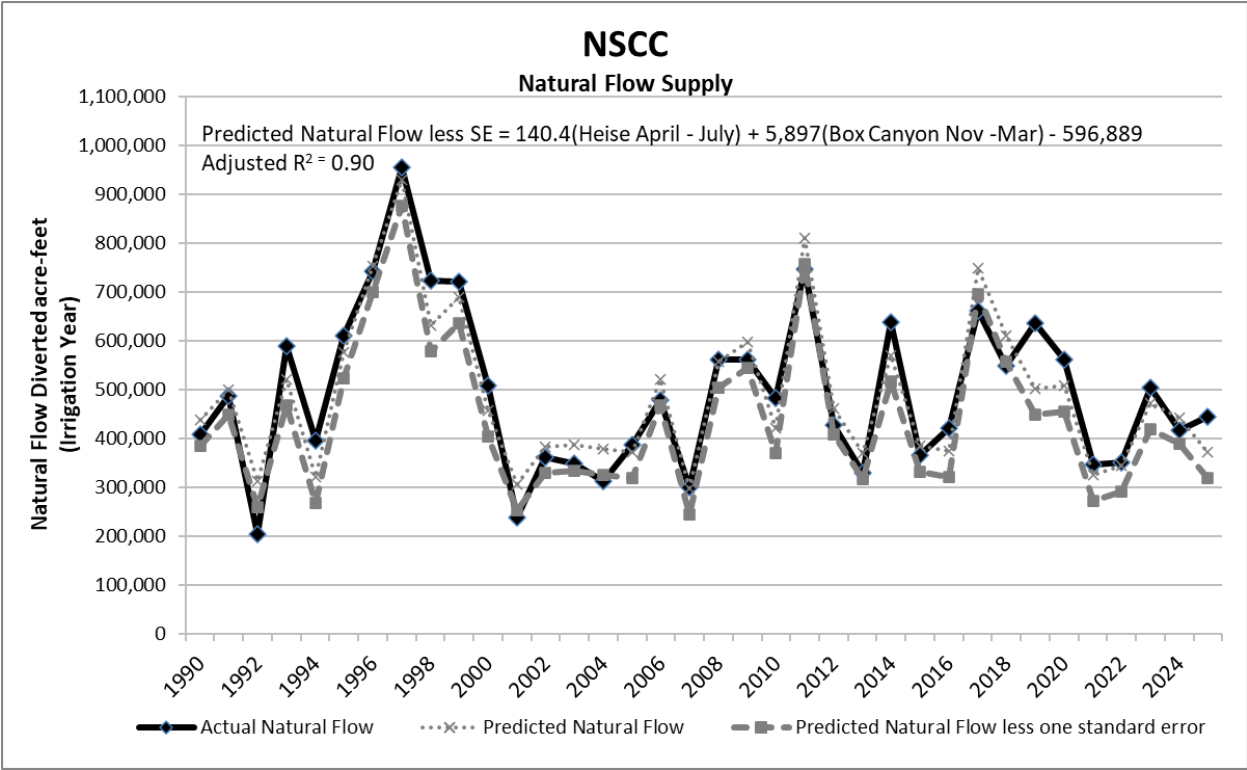
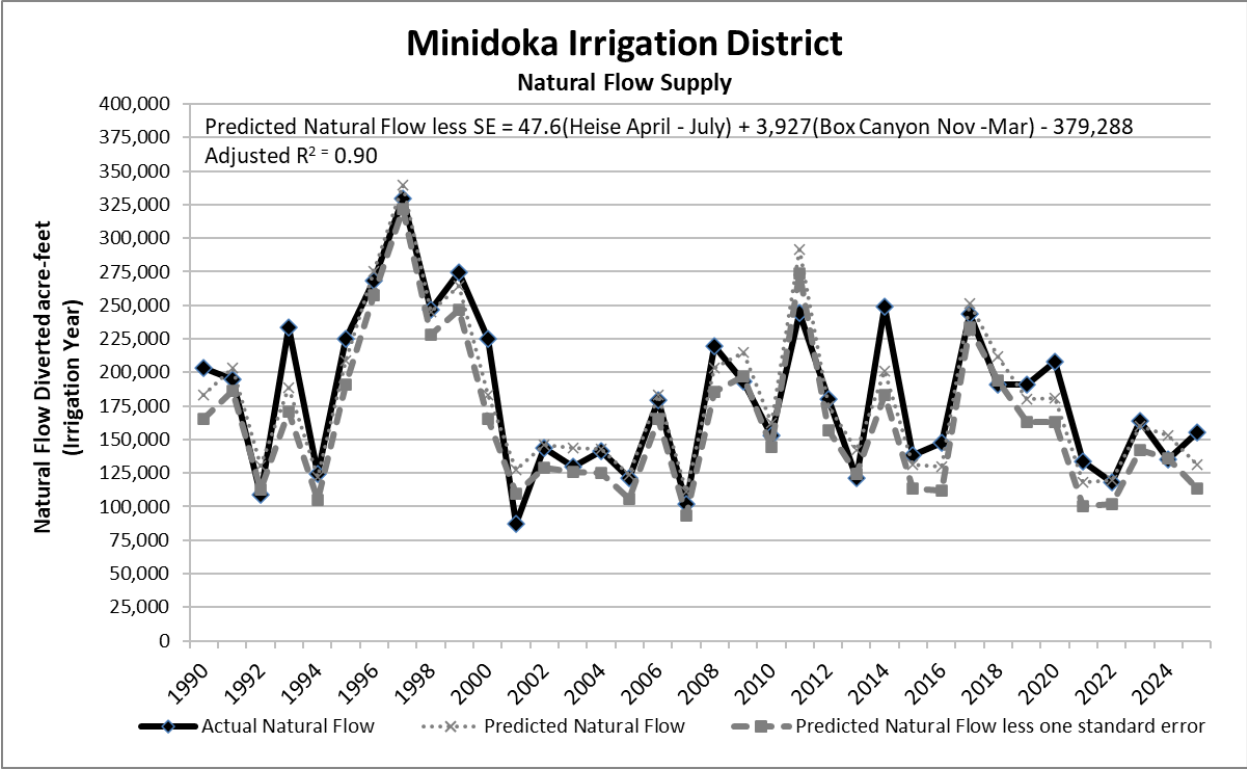


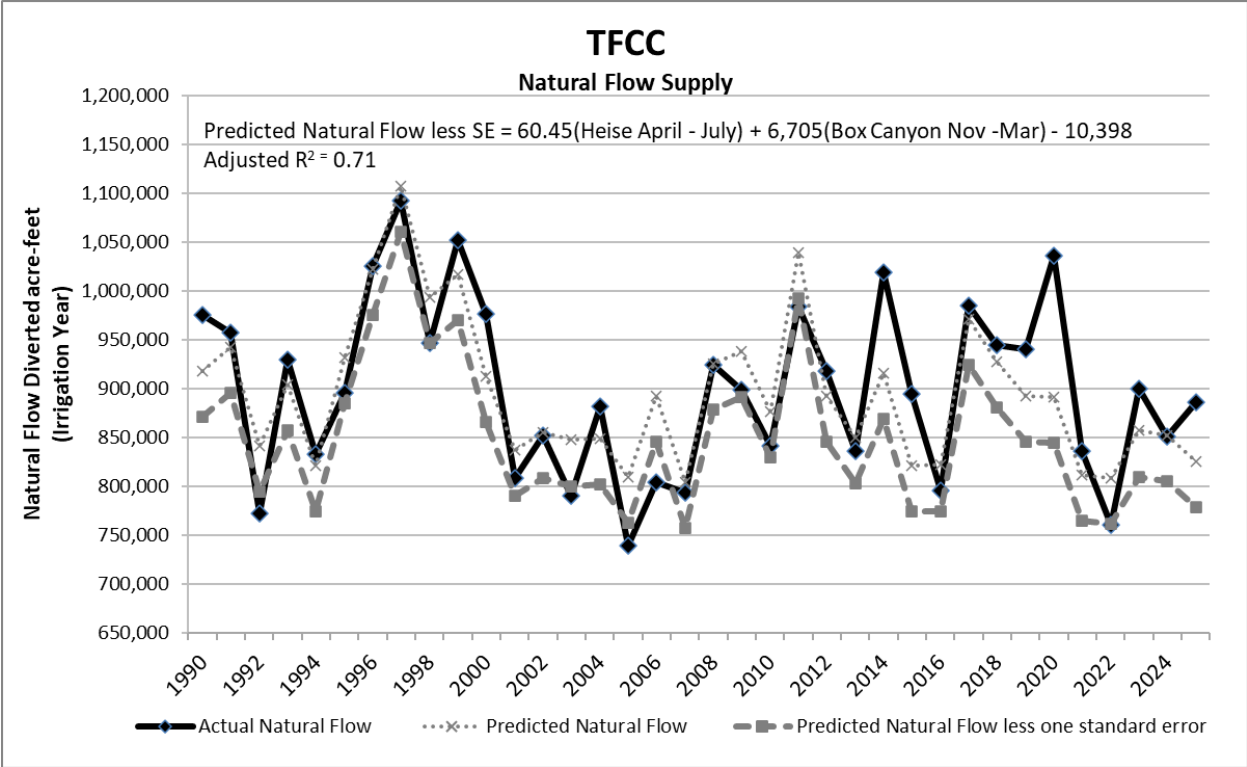
Sarah Tschohl
Paralegal

ATTACHMENT A









EXPLANATORY INFORMATION TO ACCOMPANY A FINAL ORDER

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

The accompanying document is a “**Final Order**” issued by the Idaho Department of Water Resources (“Department”) pursuant to Idaho Code § 67-5246. The following statements describe the procedures and time limits for seeking reconsideration or other administrative relief as required by Idaho Code § 67-5248.

PETITION FOR RECONSIDERATION

(See Idaho Code § 67-5246(4))

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

REQUEST FOR HEARING

(See Idaho Code § 42-1701A(3))

Unless the right to a hearing before the Director or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order, or action of the Director of the Department 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. **Note: The request must be received by the Department within this fifteen (15) day period.**

CERTIFICATE OF SERVICE

(See IDAPA 37.01.01.053, 37.01.01.202)

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