

Water mitigation agreement

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NOTICE OF MITIGATION AGREEMENT SUBMITTED BY THE WATER MITIGATION COALITION AND THE SENIOR WATER USERS' COALITION

Notice is hereby given that on August 26, 2021, the Idaho Department of Water Resources (“Department”) received a request to process a Stipulation Regarding Mitigation and Motion for Approval (“Mitigation Agreement”), entered into in 2007 by the Water Mitigation Coalition (“WMC”), a group of ground water right holders comprised of J.R. Simplot Company, Basic American Foods, a division of Basic American, Inc., and ConAgra Foods Packaged Foods Company, Inc., d/b/a/ Lamb-Weston, and the Senior Water Users’ Coalition (“Senior Coalition”), consisting of A&B Irrigation District, Burley Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company, Twin Falls Canal Company, American Falls Reservoir District #2, Minidoka Irrigation District, and Clear Springs Foods, Inc.

The Department will process the Mitigation Agreement pursuant to the Department’s Conjunctive Management (“CM”) Rules (IDAPA 37.03.11). The Mitigation Agreement may be viewed at:

<https://idwr.idaho.gov/legal-actions/delivery-call-actions/wmc-mitigation-plan/>

The Mitigation Agreement specifies that for a minimum of twenty years, the WMC will acquire and annually deliver 10,000 acre feet of Minidoka Irrigation District stored water to the Senior Coalition for the purposes of mitigating the stipulated depletion amount of 10,000 acre-feet per annum. Mitigation Agreement at ¶ 7-8. In return, the Senior Coalition agrees to “fully subordinate any surface water Delivery Call to WMC’s water rights listed on Exhibit A.” Id. at 8. The parties intend the Delivery Call subordination to remain in effect indefinitely with no additional obligations by WMC provided certain provisions of the Mitigation Agreement are satisfied and there are no additional parties or water rights in the Delivery Call subordination. Id. The parties agree that the WMC will pay for yearly water rental fees for 10,000 acre feet of mitigation storage water should the WMC be unable to deliver the 10,000 acre feet of storage water from Minidoka Irrigation District. Id.

The Department has not determined the adequacy of the Mitigation Agreement. A complete copy of the Mitigation Agreement is available for review at any of the Department’s offices or at the website link above.

Any protest against approval of the Mitigation Agreement must be filed with any Department office, together with a protest fee of \$25, on or before October 4, 2021. The protest must include a certificate of service showing that a copy of the protest has been mailed to or served upon counsel for the Water Mitigation Coalition (Albert P. Barker, 1010 W. Jefferson St., Suite 102, Boise, ID 83702) and counsel for the Senior Water Users Coalition (Travis Thompson, P.O. Box 63, Twin Falls, ID 83303-0063; Kent Fletcher, P.O. Box 248, Burley, ID 83318-0248; and John Simpson, 1010 W. Jefferson St., Suite 102, Boise, ID 83702).

Gary Spackman, Director

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