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DEPARTMENT OF
WATER RESOURCES

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U.S. Department of the Interior, Bureau of Reclamation

**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	**RECLAMATION'S PETITION FOR CLARIFICATION OF DIRECTOR'S THIRD SUPPLEMENTAL ORDER AMENDING REPLACEMENT WATER REQUIREMENTS FINAL 2005 & ESTIMATED 2006**

The U. S. Department of the Interior, Bureau of Reclamation ("Reclamation"), by and through its attorney, petitions for clarification of the Director's *Third Supplemental Order Amending Replacement Water Requirements Final 2005 & Estimated 2006* (hereafter "*Third Supplemental Order*"). Pursuant to IDWR's Rule of Procedure 770, any party may file a petition to clarify any order. IDAPA 37.01.01.770. Reclamation requests a clarification as to the Director's legal basis for determining carryover storage amounts in the *Third Supplemental Order*.

In the *Third Supplemental Order* the Director states "as applicable" the "requirements set forth" in the May 2nd [2005] Order in the above captioned case are incorporated into this Supplemental Order. *Third Supplemental Order* at 22. Similarly,

the Director states that "as applicable" the Conclusions of Law set forth in the May 2nd Order are incorporated into this Supplemental Order. *Third Supplemental Order* at 20.

The Director cites to paragraph 119 of the May 2nd Order in two places as defining the "reasonable amount of carryover" to which the Surface Water Coalition is entitled. *See Third Supplemental Order* at p.3 and ¶ 55. However, paragraph 119 of the May 2nd Order is derived from paragraph 118. Paragraph 118 provides:

> Members of the Surface Water Coalition are entitled to maintain a reasonable amount of carryover storage to minimize shortages in future dry years pursuant to Rule 42.01.g of the Conjunctive Management Rules (IDAPA 37.03.11.042.01g).

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 CanalCompany and Twin Falls Canal Company, Finding of Fact, ¶ 119 at 26 (May 2, 2005).

No provision in the *Third Supplemental Order* explains how the Director determined the legal basis for the Surface Water Coalition's reasonable carryover amount. Thus, it appears that paragraph 118 of the May 2nd Order is applicable and supplements the legal determinations in the *Third Supplemental Order.*

Reclamation respectfully requests that the Director indicate whether paragraph 118 of the May 2nd Order is the foundation for the legal basis for determining the "reasonable amount of carryover" to which the Surface Water Coalition is entitled.

Respectfully submitted this 3 day of July, 2006.

U.S. Department of the Interior, Bureau of Reclamation

By Kathleen Marion Carr
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CERTIFICATE OF SERVICE

The undersigned certifies that on them 3 day of July 2006, a true and correct copy of the foregoing was served on the following person(s) as shown below:

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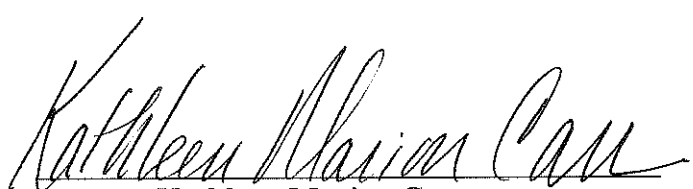

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