



## State of Idaho

# DEPARTMENT OF WATER RESOURCES

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C. L. "BUTCH" OTTER  
Governor

DAVID R. TUTHILL, JR.  
Interim Director

August 13, 2007

TO: Interested Parties (See Distribution List)

RE: Updated Water Supply through August 12, 2007 For Twin Falls Canal Company,  
and Response to Letter from Twin Falls Canal Company dated August 3, 2007

Dear Interested Party:

This letter and enclosures are being provided to interested parties on our Surface Water Coalition distribution list, with the intent of adding this information to the record in the Surface Water Coalition call. The letter has two purposes. First, to convey graphs and explanatory text describing that the water supply for 2007 has improved by about 10,000 acre-feet for Twin Falls Canal Company (TFCC) since our last assessment dated August 1, 2007, as described in the enclosed memorandum. Second, this letter responds to the two questions raised in the enclosed letter from Mr. Vince Alberdi of TFCC. Each question is repeated, followed by the response.

**Question #1:** With the difficulty to exactly predict the future natural flow and when and if we run out of storage water in 2007, and given that our demand exceeds natural flow, what assurances do we have the Department will cover our supply shortfall as it happens? Given that you are requiring that TFCC use all available storage, I have no assurance that deliveries will continue without your response. If we continue to deliver 5/8 inch (1995 was 3/4 inch), will you have the storage available to order Lyle Swank to deliver it to us? As you well understand, without adequate storage on top of the available natural flow, deliveries are impossible.

**Response:** Based on the updated information provided in the enclosed memorandum, it appears that the water supply available to TFCC this year will be at least as much as the required minimum full supply of 1,075,900 acre-feet. We will continue to review this information carefully, and if for some reason the supply in the remaining weeks is not as much as expected, we will communicate any predicted shortfalls to the Idaho Ground Water Appropriators, who will need to exercise their leases to provide the requisite water during the delivery season, in accordance with their approved plan.

**Question #2:** We have started the budgeting for fiscal year 2008 as our fiscal year concludes on October 31, 2007. The cost to rent the 40,000 acre-feet of water we rented from Water District #1 was not included in the 2007 budget. Your Sixth Supplemental Order removed that 40,000 acre-feet of water from TFCC's storage account and provided it to IGWA to use as mitigation water. In order to resolve 2007, I need those rental fees plus interest back in the TFCC account. I need to be assured the cost to rent the water with interest will be repaid prior to the end of our fiscal year. How does the State plan to reimburse Twin Falls Canal Company? In order to comply with the Rental Pool Procedures, shouldn't the Twin Falls lease be revoked so that the groundwater users can lease the water from the rental pool? TFCC's check could be returned and the groundwater users could pay the District. Otherwise, someone might argue that the groundwater users violated the rules by using TFCC's priority to rent water. Along the same lines, we would want to be assured any storage water required to supplement natural flow between now and the end of the irrigation season would be provided in season and be paid for by those mitigating our supply shortage.

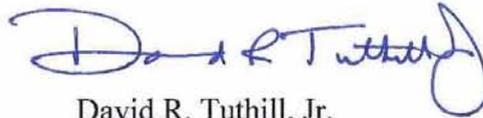
**Response:** The Sixth Amended Order in this matter states in Conclusion of Law No. 5 as follows:

As established at the June 22 hearing, IGWA has secured and pledged sufficient replacement water to mitigate TFCC's predicted material injury. Additionally, because the 40,000 acre-feet of water purchased by TFCC from the Water District 01 rental pool cannot be carried over from year-to-year, it is appropriate that IGWA be allowed to underwrite the lease entered into by TFCC to assist in mitigating TFCC's predicted material injury of 46,929 acre-feet.

While the computation of the amount of predicted material injury has changed since the Sixth Amended Order was issued, the concept of this Conclusion of Law has not changed. One option available to IGWA in mitigating material injury for this irrigation season is to in some manner underwrite all or a portion of the 40,000 acre-feet purchased by TFCC. However, many other options for providing this water exist. What is important in the near term is that the minimum full supply be provided, and this requirement is being met. Regarding the disposition of the 40,000 acre-feet of water, I recommend that TFCC enter into discussions with IGWA and the Watermaster of Water District 01 to develop a solution that will be acceptable to the parties and the Rental Pool Committee, in accordance with the rules. I intend to order solutions only to the extent that the parties do not develop them. There is time over the next couple of months for such solutions to unfold.

We will continue to carefully monitor and periodically report on the water supplies available to members of the Surface Water Coalition during the remainder of Water Year 2007. In addition, I anticipate providing additional guidance regarding some additional 2007 issues such as the allocation of replacement water provided by the food processors and the implementation of Minidoka Credits. Issues regarding 2008 will be referred to the Hearing Officer.

Sincerely,

A handwritten signature in blue ink that reads "David R. Tuthill, Jr." with a stylized flourish at the end.

David R. Tuthill, Jr.  
Director

Enclosures:

- Update Water Supply through August 12, 2007 for Twin Falls Canal Company
- Letter from Twin Falls Canal Company dated August 3, 2007
- Distribution List

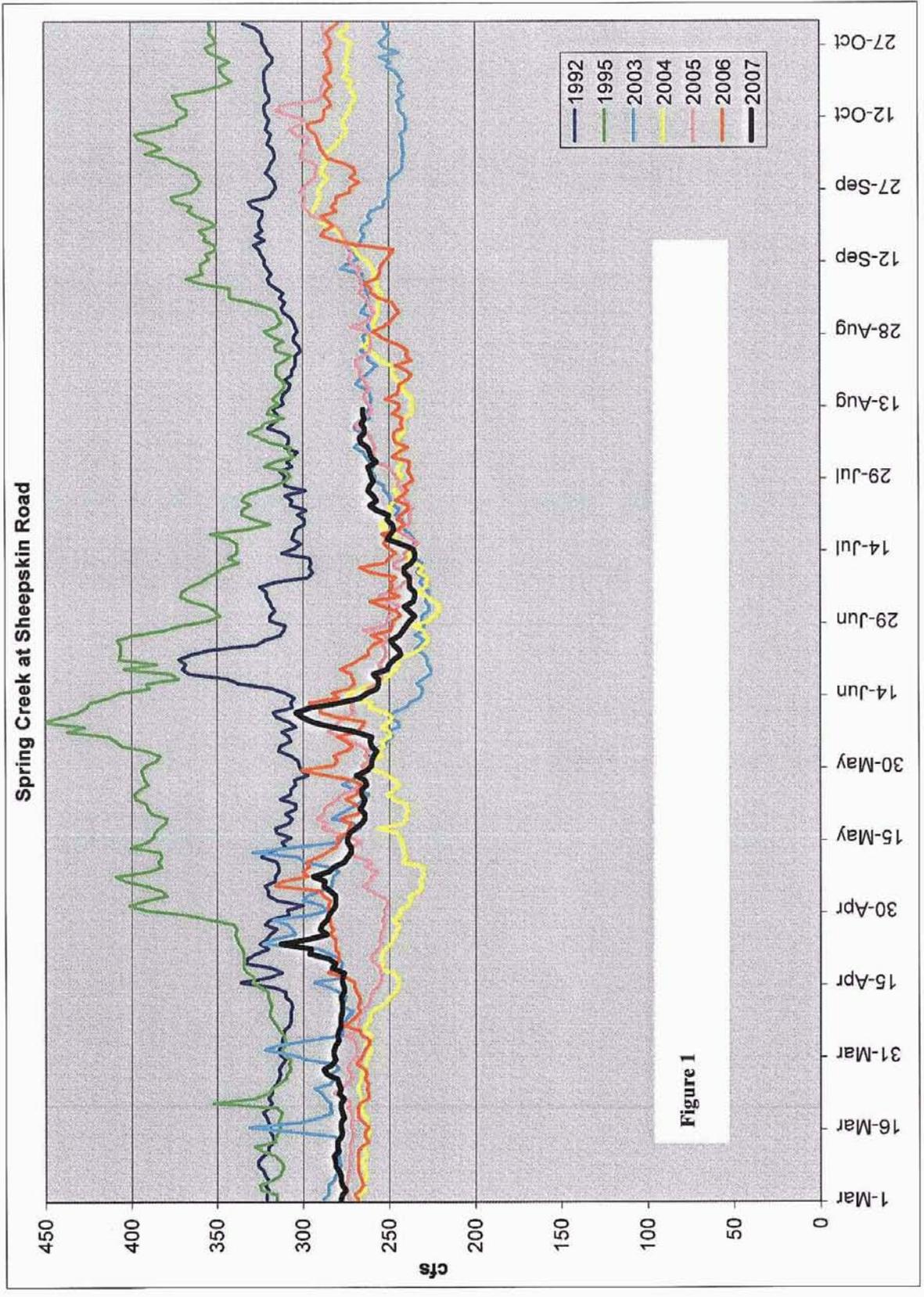


## MEMORANDUM

**DATE:** August 13, 2007  
**TO:** Dave Tuthill *DT*  
**FROM:** Liz Cresto and Steve Burrell  
**RE:** Updated Water Supply through August 12, 2007 for Twin Falls Canal Company

Attached are four graphs depicting reach gain conditions and forecasts of water supplies for Twin Falls Canal Company (TFCC), updated with current water rights and gage data through August 12. Figure 1 shows flows in Spring Creek at Sheepskin road. Since August 1, 2007, flows have increased somewhat, and are similar to 2005 and 2003 rates. Figure 2 shows reach gains from the Near Blackfoot gage to the Milner gage from the latest water rights accounting. The reach gains have started to recede from a rate of about 2,480 cfs on August 2 down to 2,120 as of yesterday, approaching 2003, 2004, and 2006 levels. As a result of the decrease in reach gains in the last two weeks, TFCC has been using more storage each day than they were on August 1. As a percentage of their total diversion, 40% is being taken from storage on August 12 compared to 36% on August 1.

Figure 3 shows the forecasted storage use for TFCC after August 12, using the 2003 historical diversions for the remainder of the season as a predictor of remaining 2007 season diversions. Figure 3 shows that TFCC is predicted to have about 6,000 acre-feet of storage remaining at the end of the season. Comparing with the August 1, 2007 memorandum, *2007 water supply update*, we are now expecting about 10,000 acre-feet less storage use, primarily because of the greater natural flow availability in the last two weeks than was assumed in the August 1, 2007 memorandum. Figure 4 shows the total diversions for the 2007 season using 2003 diversions after August 12, and the minimum full supply based on 1995 diversions of 1,075,900 acre-feet. With the current actual and predicted diversions, TFCC will exceed their minimum full supply by approximately 3,000 acre-feet.



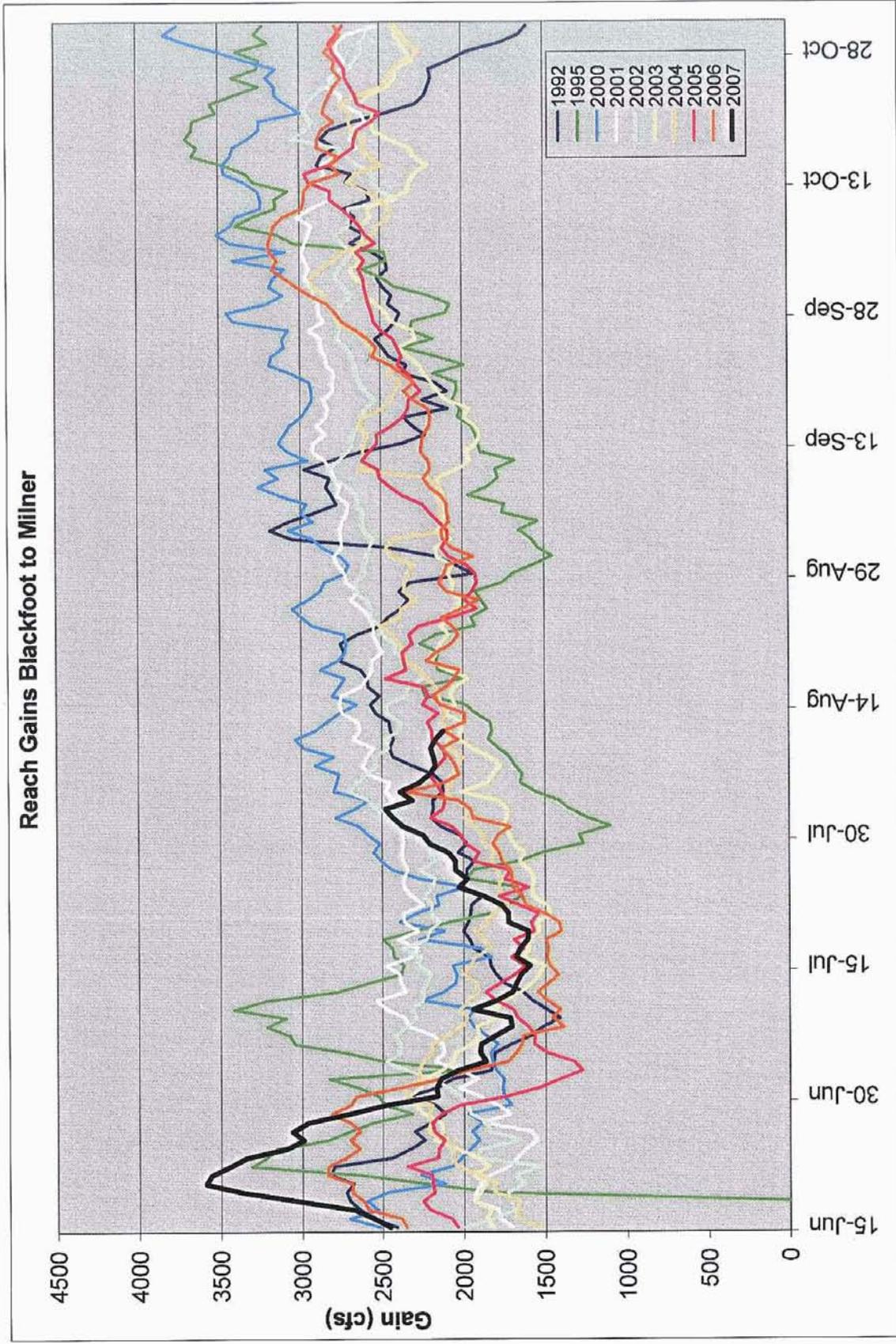


Figure 2

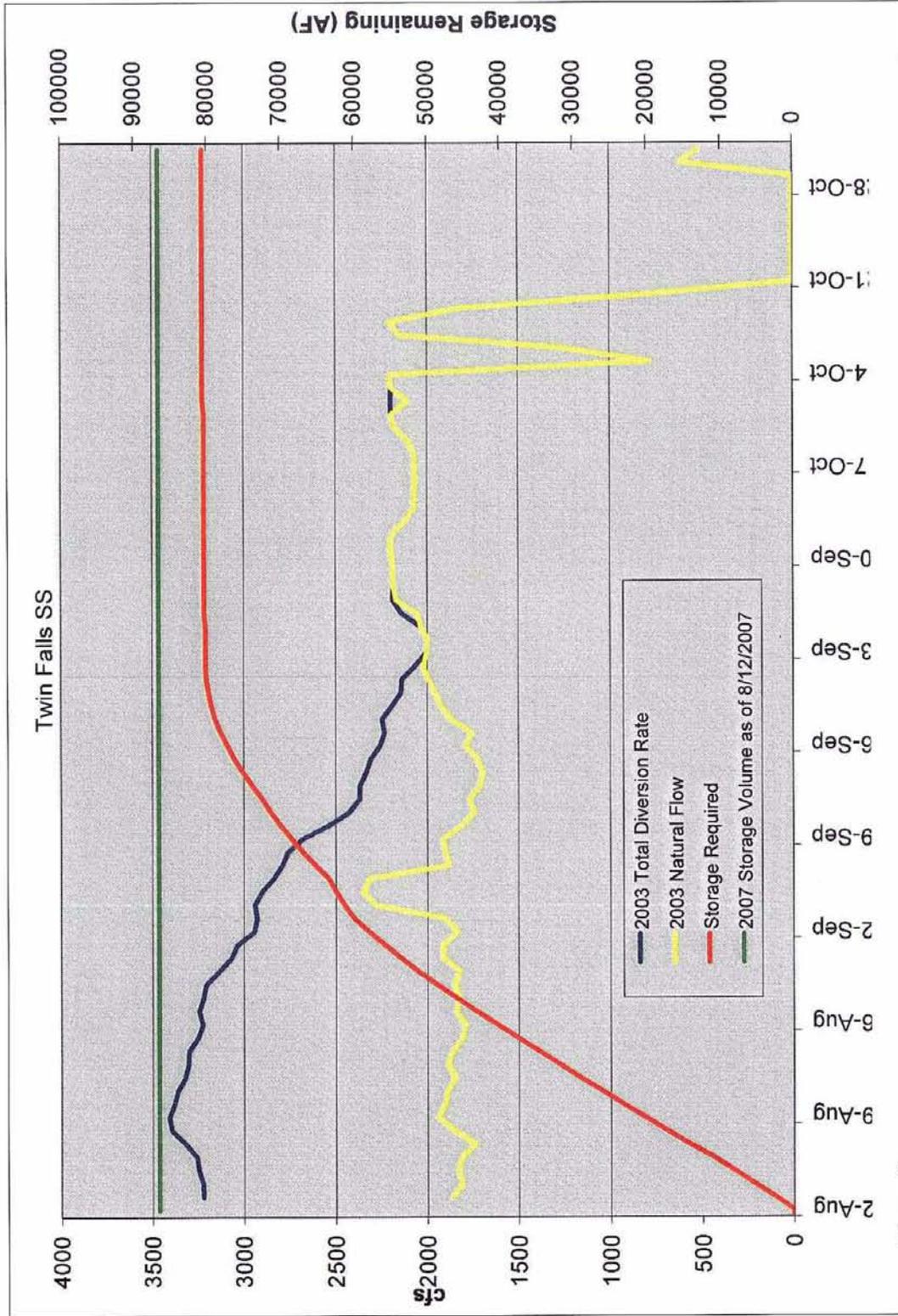


Figure 3

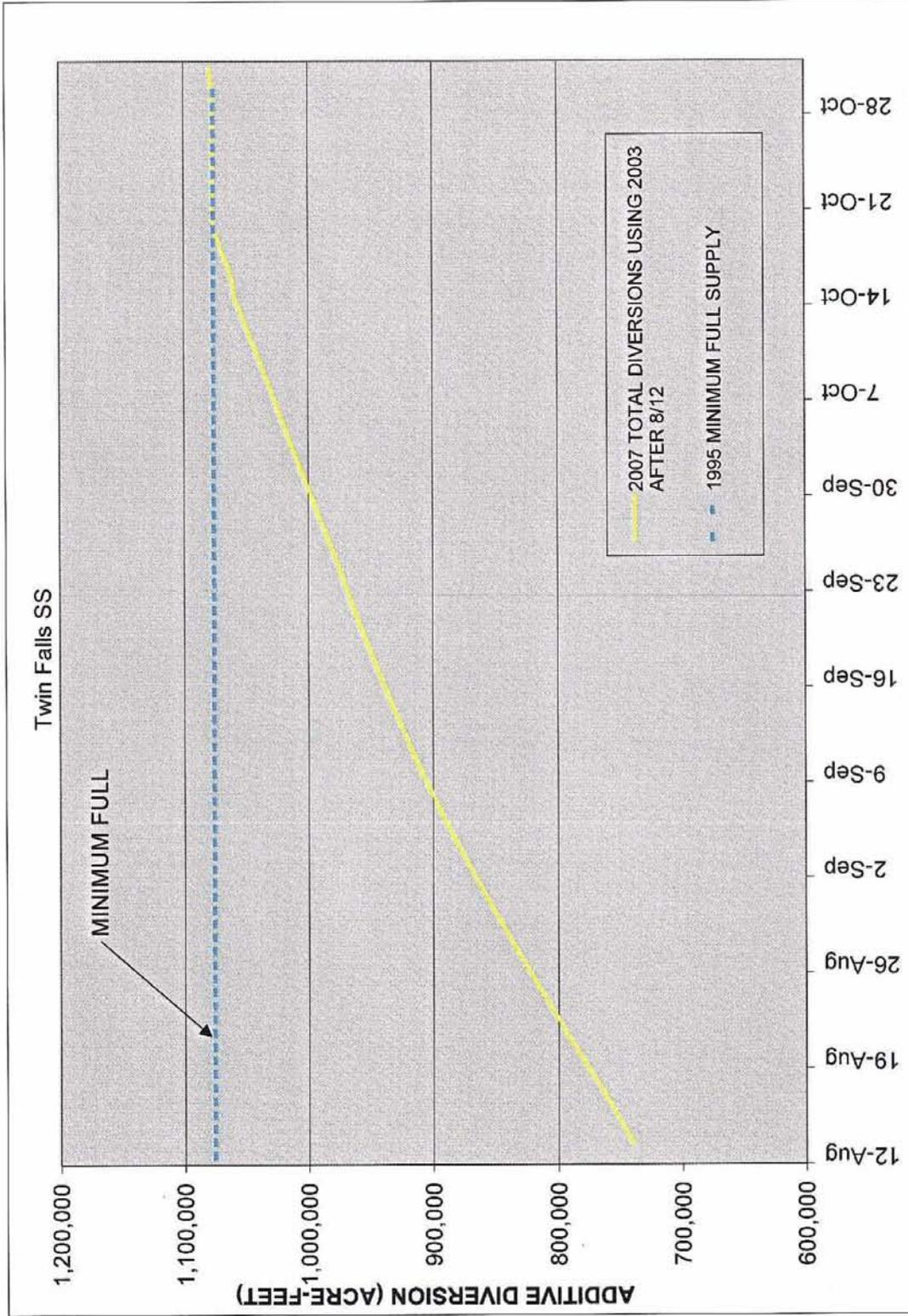


Figure 4



## TWIN FALLS CANAL COMPANY

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August 3, 2007

Mr. Dave Tuthill   
Director  
Idaho Department of Water Resources  
State of Idaho  
P.O. Box 83720  
Boise, Idaho 83720-0098

RECEIVED

AUG 06 2007  
DEPARTMENT OF  
WATER RESOURCES

Re: TFCC Water Supply for 2007 and your memo dated August 1, 2007

Dear Dave:

After reviewing the August 1, 2007 memo provided to you from your staff and my need to convey our current water supply status to water users and the Board, I am requesting you to provide written answers to the following questions prior to our August 14th Board Meeting. It is my intent to bring these questions and your answers for Board action in notifying our water users regarding water deliveries for the remainder of the irrigation season. Obviously, Twin Falls Canal Company continues to disagree with the Department's view of our water rights and need, but it will continue to take actions to address injury to our senior water rights and water users from reduced deliveries. Simply speaking, the water user needs to hear from you on what you are going to do to assure their deliveries for the balance of the year.

Question #1: With the difficulty to exactly predict the future natural flow and when and if we run out of storage water in 2007, and given that our demand exceeds natural flow, what assurances do we have the Department will cover our supply shortfall as it happens? Given that you are requiring that TFCC use all available storage, I haven no assurance that deliveries will continue without your response. If we continue to deliver 5/8 inch (1995 was 3/4 inch), will you have the storage available to order Lyle Swank to deliver it to us? As you well understand, without adequate storage on top of the available natural flow, deliveries are impossible.

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Thank you in advance to your timely response to these pressing issues.

Sincerely,

A handwritten signature in black ink, appearing to read "Vince Alberdi", with a long horizontal flourish extending to the right.

Vince Alberdi  
General Manager

Cc: C. L. "Butch" Otter, Governor State of Idaho  
Jim Yost, Governor's Staff State of Idaho

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14<sup>th</sup> day of August, 2007, the above and foregoing, was served by the method indicated below, and addressed to the following:

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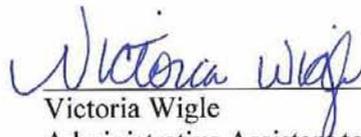
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