**BEFORE THE DEPARTMENT OF WATER RESOURCES**

**OF THE STATE OF IDAHO**

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| IN THE MATTER OF APPLICATION FOR TEMPORARY EXCHANGE OF WATER NO. TC-01-53 IN THE NAME OF TWIN FALLS CANAL CO., NORTH SIDE CANAL CO., AND U. S. BUREAU OF RECLAMATION | **ORDER AUTHORIZING TEMPORARY EXCHANGE** |

WHEREAS, drought emergencies have been declared for Gooding, Jerome, and Twin Falls Counties to allow administrative actions to lessen the severe impacts of drought conditions in the counties; and

WHEREAS, Idaho Code § 42-222A provides that upon declaration of a drought emergency, the Director of the Department of Water Resources ("Director" or "Department") is authorized to allow temporary changes in the point of diversion, the place of use, and the purpose of use for valid existing water rights or temporary exchanges of water authorized under water rights when the Director determines that such changes can be accomplished in accordance with the provisions of Idaho Code § 42-222A; and

WHEREAS, on July 22, 2004, the Twin Falls Canal Company, North Side Canal Company, and U. S. Bureau of Reclamation ("Applicants") requested that the Director approve the attached Temporary Water Exchange Agreement ("Application"); and

WHEREAS, the Director has reviewed the Application and has determined the Application can be approved with certain conditions.

**ORDER**

IT IS HEREBY ORDERED that the Application is **APPROVED** subject to the following conditions:

1. The agreement to exchange water under the contract rights held or controlled by the applicants as described in the Application is authorized at the locations described in the Application.

2. The watermaster of Water District No. 01 is authorized to administer the temporary exchange as approved. The watermaster shall regulate and keep a record of the amount of water diverted and accumulated as described in the Application under the exchange of contract rights held or controlled by the applicants.

3. The applicants assume all risk of curtailment or mitigation should the diversion and use of water under the temporary exchange be subsequently determined to cause injury to other water rights, constitute an enlargement in use of the original rights, be inconsistent with the conservation of water resources within the state of Idaho, or not be in the local public interest.

4. This temporary exchange as approved may only be used to provide a replacement water supply to lands or other uses that normally have a full water supply, except for the drought condition. This temporary exchange may not be used to provide water for new development or to allow expansion of the use of water under existing water rights.

5. This temporary exchange as approved does not grant any right-of-way or easement to use the diversion works or conveyance works of any other person or entity.

6. This temporary exchange as approved does not authorize the use of diversion works or a delivery system owned by or managed by a corporation or an irrigation district without the written consent of such corporation or irrigation district.

7. The applicants agree to hold the Director and the State of Idaho harmless from all liability on account of the diversion and use of water under this temporary exchange.

8. Approval of this temporary exchange expires at the end of the period described on the Application unless rescinded or extended by the Director. Thereafter, the water rights shall revert to the point of diversion, place of use, and nature of use existing prior to the temporary exchange approval.

9. By diversion and use of water under this temporary exchange, the Applicants acknowledge and agree that the Director may terminate diversion of water under this temporary exchange if the Director determines there is interference with or injury to other water rights.

10. The natural flow made available to the U. S. Bureau of Reclamation under this temporary exchange as approved shall be protected from diversion by others to Idaho Power's Hells Canyon Complex located in Washington and Adams Counties, Idaho.

DATED this 31st day of July 2004.

Karl J. Dreher
Director