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

IN THE MATTER OF ACCOUNTING FOR  
DISTRIBUTION OF WATER TO THE  
FEDERAL ON-STREAM RESERVOIRS IN  
WATER DISTRICT 01

**SURFACE WATER COALITION'S  
MOTION FOR STAY**

COME NOW, the American Falls Reservoir District #2, A&B Irrigation District, Burley Irrigation District, Milner Irrigation District, Milner Irrigation District, Twin Falls Canal Company, and North Side Canal Company (collectively, the "Surface Water Coalition," "Coalition," or "SWC"), by and through their undersigned attorneys of record, and move the Director for an order staying proceedings in the above-captioned matter. In particular, the Coalition requests that the Director stay all deadlines in this matter and vacate the hearing presently set for February 9-11, 2015. The Coalition would propose that the Director set a status conference in March or April to receive an update on the status of the negotiations and determine whether a hearing will even be necessary.

This matter began on October 24, 2013, when the Director of the Department of Water Resources issued the *Notice of Contested Case and Formal Proceedings, and Notice of Status Conference*. The proceedings were then stayed on December 27, 2013.

Following the 2013 stay order, the parties began meeting to see if they could resolve their disputes concerning the fill and refill of reservoirs in Basin 01. Importantly, through these discussions, the parties are attempting to resolve issues not only related to these administrative proceedings, but also with proceedings before the Snake River Basin Adjudication (“SRBA”) District Court.

The Director lifted the stay on these proceedings through a September 10, 2014 *Order Lifting Stay and Notice of Status Conference*. A hearing was set for January 14-16, 2015 – and associated deadlines for discovery and of briefing were established. *See Scheduling Order; Notice of Hearing; Order Authorizing Discovery* (Oct. 15, 2014). Even though these matters were set for hearing, substantial negotiations between the parties have continued over the past few months.

The Director recognized that the negotiations may impact these administrative proceedings. On November 21, 2014, the Director issued the *Amended Scheduling Order* adjusting the schedule – but retaining the January 14-16, 2015 hearing. According to the Director:

Because of ongoing settlement negotiations regarding this contested case and related contested cases pending before the Snake River Adjudication Court, some of the parties to this contested case requested a delay in some of the filing deadlines imposed by the Scheduling and Hearing Order.

Thereafter, on December 18, 2014, the Director issued a *Second Amended Scheduling Order*, again adjusting the scheduling and moving the hearing to February 9-11, 2015. Again, the Director recognized that a stay was appropriate so that the parties could continue negotiations:

On December 15, 2014, the Idaho Department of Water Resources ("Department") received a request from Travis Thompson, attorney for the Surface Water Coalition, to postpone the hearing date and the other deadlines set in this matter so participants in this contested case proceeding can continue settlement discussions related to the contested cases pending before the Snake River Basin Adjudication District Court. The Director agrees the schedule should be amended to allow additional time for negotiations.

The new schedule requires that the parties file a response to the Department Staff Memo by January 16, 2015 and replies to the memo on February 3, 2015. In addition, discovery is ongoing, with a deadline of February 3, 2015.

The parties continue to negotiate a resolution. In fact, the negotiations have advanced to the point that a stipulation has been drafted by the parties that would appear to resolve the issues addressed in these proceedings as well as the SRBA subcases. Rather than expend time and resources on discovery and additional pre-hearing preparations, the Coalition submits the parties' and Department's resources would be better spent on finalizing the proposed settlement and discussing how the SRBA resolution would affect or would address the present contested case.

Given the status of these negotiations, the Coalition requests that the Director stay proceedings in the above matter to provide the parties sufficient time to negotiate a final stipulated agreement. Such a stay would allow the parties to focus on the settlement discussions rather than briefing, discovery and hearing preparations in this matter.

Accordingly the Director should stay these proceedings to allow the parties to reach a stipulated resolution.

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DATED this 14<sup>th</sup> day of January, 2015.

**BARKER ROSHOLT & SIMPSON LLP**



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**CERTIFICATE OF SERVICE**

I hereby certify that on the 14<sup>th</sup> day of January, 2015, I served a true and correct copy of the foregoing **SURFACE WATER COALITION'S MOTION FOR STAY** on the person(s) listed below, in the manner indicated:

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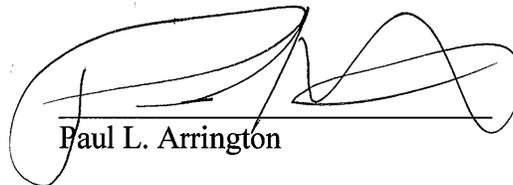
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