

LAWRENCE G. WASDEN  
ATTORNEY GENERAL

DAVID G. HIGH, ISB No. 1820  
Chief of Civil Litigation

MICHAEL S. GILMORE, ISB No. 1625  
Deputy Attorney General  
Statehouse, Room 210  
Boise, ID 83720  
Telephone: (208) 334-4130  
Telefax: (208) 334-2830  
Attorneys for State Agency Ground Water Users  
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ORIGINAL

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

IN THE MATTER OF THE DISTRIBUTION OF )  
WATER TO VARIOUS WATER RIGHTS HELD )  
BY A&B IRRIGATION DISTRICT, AMERICAN ) **STATE AGENCY GROUND**  
FALLS RESERVOIR DISTRICT # 2, BURLEY ) **WATER USERS' PETITION TO**  
IRRIGATION DISTRICT, MILNER ) **INTERVENE**  
IRRIGATION DISTRICT, MINIDOKA )  
IRRIGATION DISTRICT, NORTH SIDE CANAL )  
COMPANY, AND TWIN FALL CANAL )  
COMPANY )

The State Agency Ground Water Users (the Idaho Department of Juvenile Corrections, the Idaho Department of Health & Welfare, the Idaho Department of Fish & Game, and the Idaho Transportation Department), by and through their counsel of record Michael S. Gilmore, Deputy Attorney General, hereby petition to intervene in this proceeding. The State Agency Ground Water Users allege:

1. The State Agency Ground Water Users and their main addresses are:

- Idaho Transportation Department, 3311 West State Street, PO Box 7129, Boise, Idaho 83707-1129
- Idaho Department of Juvenile Corrections, 400 North 10th Street, 2nd Floor, PO Box 83702, Boise, Idaho 83720-0285
- Idaho Department of Health & Welfare, 450 West State Street, PO Box 83720, Boise, Idaho 83702-0036
- Idaho Department of Fish & Game, 600 South Walnut Street, Boise, Idaho 83712.

In addition to these main addresses, the State Agency Ground Water Users have many other

addresses throughout the State.

2. At least one of the State Agency Ground Water Users (the Idaho Transportation Department) has received a letter from a watermaster stating that ground Water Right Nos. 35-8624, 35-8625, and 35-9041 will be subject to curtailment or required mitigation. However, one of the ground water rights listed in that notice sent to the Idaho Transportation Department (No. 35-8624) is shown by IDWR records to be held by the Idaho Department of Fish & Game.

3. The Idaho Transportation Department received notice of possible curtailment or required mitigation for two of its water rights and what turned out to be a Fish & Game ground water right by a letter dated April 22, 2005, and received by ITD on April 25, 2005, *i.e.*, a notice of such importance was mailed by surface mail rather than faxed. There may be other State Agency Ground Water users whose mail has been delayed who will receive such notices but have not yet had an opportunity to forward them to counsel.

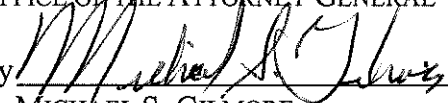
4. The threat of curtailment or mitigation and the short procedural window that the Department has given for responding to its letter gives the State Agency Ground Water Users a direct and substantial interest in the proceeding that justifies granting their petition to intervene.

5. The Department should waive the requirements of its Rule 352 that petitions to intervene must be filed at least 14 days before a hearing or prehearing conference because the Department's Notice of Status Conference was issued on April 22, 2005, just five days before the status conference scheduled for April 27, 2005, and because the Idaho Transportation Department received its curtailment/mitigation letter on April 25, 2005, just two days before the status conference.

6. The State Agency Ground Water users petition the Department to immediately grant their petition to intervene.

DATED this 26<sup>th</sup> day of April, 2005.

STATE OF IDAHO  
OFFICE OF THE ATTORNEY GENERAL

By   
MICHAEL S. GILMORE  
Deputy Attorney General

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 26<sup>th</sup> day of April, 2005, I caused to be served a true and correct copy of the foregoing via e-mail or facsimile to:

Roger D. Ling  
LING ROBINSON & WALER  
PO Box 396  
Rupert, Idaho 83330  
[rdl@idlawfirm.com](mailto:rdl@idlawfirm.com)

John A. Rosholt  
John K. Simpson  
Travis L. Thompson  
BARKER ROSHOLT & SIMPSON LLP  
113 Main Ave. West, Suite 303  
Twin Falls, Idaho 83301-6167  
[jar@idahowaters.com](mailto:jar@idahowaters.com)

Jeffrey C. Feredey  
Michael C. Creamer  
GIVENS PURSLEY LLP  
601 Bannock Street, Suite 200  
PO Box 2720  
Boise, Idaho 83701-2729  
[jefferede@givenspursley.com](mailto:jefferede@givenspursley.com)

Kathleen Marion Carr  
OFFICE OF THE FIELD SOLICITOR  
550 W. Front Street, MSC 020  
Boise, Idaho 83724  
Facsimile: (208) 334-1918


C. Tom Arkoosh  
ARKOOSH LAW OFFICES, CHTD.  
PO Box 32  
Gooding, Idaho 83330  
[alo@cableone.net](mailto:alo@cableone.net)

W. Kent Fletcher  
FLETCHER LAW OFFICE  
PO Box 248  
Burley, Idaho 83318  
[wkf@pmt.org](mailto:wkf@pmt.org)

Scott L. Campbell  
MOFFATT, THOMAS, BARRETT, ROCK &  
FIELDS, CHARTERED  
101 S. Capitol Blvd., 10th Floor  
PO Box 829  
Boise, Idaho 83701  
[slc@moffett.com](mailto:slc@moffett.com)

Josephine P. Beeman  
BEEMAN & ASSOCIATES, P.C.  
409 West Jefferson Street  
Boise, Idaho 83702  
[jo.beeman@beemanlaw.com](mailto:jo.beeman@beemanlaw.com)

Sarah A. Klahn  
WHITE & JANKOWSKI, LLP  
511 16th St. Suite 500  
Denver, Colorado 80202  
Facsimile: (303) 825-5632

  
Michael S. Gilmore  
Deputy Attorney General