

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

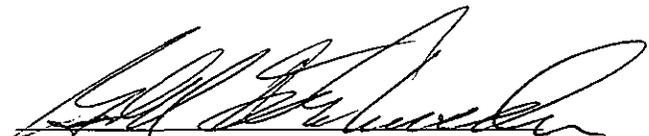
IN THE MATTER OF THE PETITION)	HEARING OFFICER'S
FOR DELIVERY CALL OF A&B)	RESPONSE TO A&B'S
IRRIGATION DISTRICT FOR THE)	PETITION FOR
DELIVERY OF GROUND WATER AND)	CLARIFICATION
FOR THE CREATION OF A GROUND)	
WATER MANAGEMENT AREA)	
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A&B filed a Petition for Clarification of the Hearing Officer's May 29, 2009, Order on June 12, 2009. IGWA, the City of Pocatello, and Fremont-Madison Irrigation District have responded jointly, challenging the process of filing a Petition for Clarification instead of filing exceptions with the Director or a Petition for Reconsideration. Addressing the Petition in order to assure that the Recommendation process is concluded and that the Director may proceed, the following constitutes the Hearing Officer's response.

In context the finding that there has not been a "total project failure" is a finding of fact, not a measure of material injury. Material injury may occur before a total project failure. It is a finding made because of the extensive evidence offered concerning the nature and operation of the project, not as a threshold requirement before curtailment or mitigation can be sought.

No further clarification of the remaining issues will be made to the Recommendation.

Dated this 19 day of June, 2009.

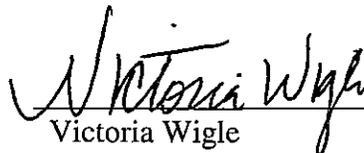

GERALD F. SCHROEDER
HEARING OFFICER

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the attached document on the persons listed below by mailing in the United States mail, first class, with the correct postage affixed thereto on the 19th day of June, 2009.

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