

Randall C. Budge (ISB # 1949)
Scott Smith (ISB # 6014)
Candice M. McHugh (ISB # 5908)
RACINE OLSON NYE BUDGE &
BAILEY, CHARTERED
PO Box 1391
Pocatello, ID 83204-1391
Telephone: (208) 232-6101
Facsimile: (208) 232-6109

ATTORNEYS FOR IDAHO GROUND WATER
APPROPRIATORS

RECEIVED
MAY 06 2010
DEPARTMENT OF
WATER RESOURCES

BEFORE DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION
OF WATER TO VARIOUS WATER
RIGHTS HELD BY OR FOR THE
BENEFIT OF A&B IRRIGATION
DISTRICT, AMERICAN FALLS
RESERVOIR DISTRICT #2, BURLEY
IRRIGATION DISTRICT, MILNER
IRRIGATION DISTRICT, MINIDOKA
IRRIGATION DISTRICT, NORTH SIDE
CANAL COMPANY, AND TWIN FALLS
CANAL COMPANY

Docket No.: CM-DC-2010-001

AFFIDAVIT OF TIMOTHY DEEG

STATE OF IDAHO)
 ss:
County of Bannock)

The undersigned, Timothy P. Deeg, having been first duly sworn upon oath does hereby
depose and state as follows:

1. I am the past Chairman and a Board Member of the Aberdeen-American Falls
Ground Water District and the Chairman of the Idaho Ground Water Appropriators, Inc.
("IGWA"). I am also a farmer and have been farming since 1974. I am familiar with the
operations within Aberdeen-American Falls Ground Water Districts and am familiar with the

interests of the Ground Water District members and other members of IGWA. Attached hereto is an accurate list of the Ground Water District members that belong to IGWA including the number of members within each of the Districts as well as the number of irrigated acres within those Ground Water Districts.

2. I am also a member on the Eastern Snake Plain Aquifer Comprehensive Aquifer Management Plan Implementation Committee commonly referred to as the ESPA. I have been active in that committee for the past three years.

3. I am familiar with the *Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carry-Over* ("Methodology Order") and the *Order Regarding April 2010 Forecast Supply (Methodology Steps 3 and 4)* ("As-Applied Order") and am generally familiar with their contents.

4. I understand that the Director has ordered the junior groundwater users to provide him evidence that we have secured 84,300 acre-feet in storage water to mitigate for the predicted shortage to Twin Falls Canal Company and American Falls Reservoir District No. 2 for the upcoming 2010 irrigation season. This is in addition to the amount of water that we need to meet our obligations to Clear Springs which is roughly 27,000 acre-feet bringing the total amount of water IGWA needs to secure for 2010 to 110,000 acre-feet. This amount of water shocked the groundwater users and is nearly three times the amount of water that we were expecting we may have to lease in order to meet any orders for the 2010 irrigation season. Giving the late timing of this order and the great amount of water required, IGWA needs more time in order to avoid the irreparable harm that will occur if groundwater users are curtailed this year.

6. IGWA on behalf of the groundwater users is diligently pursuing obtaining water leases and options, although we disagree with the process and dispute the amount of water that

we are being required to secure. However, many of the storage water right holders that we have leased water from in the past or who we have recently approached are not willing to commit to a certain amount until after the day of allocation by Water District 01. Day of allocation is when the storage space holders know whether or not their storage space has filled. As such, we will be unable to secure the required amount of water by the May 13th deadline. My understanding is if we do not come up with that amount of water that the Director will issue a curtailment order.

7. Curtailment orders against the junior groundwater users would be devastating for several reasons. First, the economic devastation to the groundwater user and the surrounding communities cannot be overstated. The farmers have already planted their crops, purchased their fertilizer, and have made substantial investments in their farms for the upcoming season. The economic devastation that would result from the curtailment of 73,782 acres on the Eastern Snake Plain would be catastrophic to the farmers. Second, the groundwater users have been actively involved in the CAMP process and are fully supportive of that process. However, curtailment of this magnitude would substantially hinder progress in that process because the curtailed groundwater acres would no longer be able to afford to pay assessments and I fear that there would be a loss of good will. Third, the groundwater users have made significant progress on potential settlement in the Thousand Springs area. I fear that a wide-spread curtailment could thwart the progress being made to solve issues to the mutual satisfaction of both the junior and senior water users.

8. The harm of the curtailment order will be irreparable and must be avoided.

9. IGWA filed its Mitigation Plan for the Surface Water Coalition Delivery Call last November and a hearing on it has not yet been held, but is set for the end of May. At the very least, IGWA should have the opportunity to have its hearing before the Director issues any curtailment order.

10. I believe that IGWA can secure sufficient water once the day of allocation occurs and while I strongly disagree with the Director being able to force us to secure the 84,300 acre-feet of water in order to avoid curtailment, I believe we should be given a reasonable chance to do so before a curtailment order is issued.

11. The Ground Water Users are not unopposed to providing mitigation water, provided that (a) any order requiring mitigation water provides a reasonable timeframe which they can satisfy to obtain the mitigation water, (b) the amount of mitigation water is actually needed to raise crops and is based upon ground water pumping impacts upon any shortage. It is the Ground Water Users understanding that this is not what the current Methodology Order provides.

12. The Director had the opportunity since the summer of 2009 to develop a methodology for calculating material injury. Instead of properly utilizing that time period to carefully develop a methodology, the Director waited until a short four or five week period in the late spring of 2010 and threw together an overly simplistic methodology which fails to analyze ground water impacts and actual crops needs which comes up with an outrageously high mitigation requirement. This process has not been fair to the Ground Water Users and should be taken into consideration.


Further, your Affiant saith not.

DATED this 5th day of May, 2010.


TIMOTHY P. DEEG

Subscribed and sworn to before me, a Notary Public, this 5th day of May, 2010.

✠
MARY TADDICKEN
NOTARY PUBLIC
STATE OF IDAHO
✠


Notary Public for Idaho
Residing at Boise
My commission expires 9-12-13

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of May, 2010, I served a true and correct copy of the foregoing by delivering it to the following individuals by the method indicated below, addressed as stated:

| | |
|---|--|
| <p>Gary Spackman, Interim Director Idaho Department of Water Resources P.O. Box 83720 Boise, Idaho 83720-0098 Fax: 208-287-6700 gary.spackman@idwr.idaho.gov garrick.baxter@idwr.idaho.gov chris.bromley@idwr.idaho.gov</p> | <p><input type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input checked="" type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> Email</p> |
| <p>C. Tom Arkoosh Arkoosh Law Offices, Chtd. 301 Main Street; P.O. Box 32 Gooding, ID 83330 tarkoosh@capitolawgroup.net</p> | <p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input checked="" type="checkbox"/> Hand Delivery <input type="checkbox"/> Email</p> |
| <p>W. Kent Fletcher Fletcher Law Office P.O. Box 248 Burley, Idaho 83318-0248 wkf@pmt.org</p> | <p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> Email</p> |
| <p>John A. Rosholt John K. Simpson Travis L. Thompson Barker, Rosholt & Simpson 113 Main Avenue W., Ste 303 Twin Falls, ID 83301-6167 jar@idahowaters.com jks@idahowaters.com flt@idahowaters.com</p> | <p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> Email</p> |
| <p>Kathleen Marion Carr U.S. Department of the Interior 960 Broadway, Ste 400 Boise, Idaho 83706 kathleenmarion.carr@sol.joi.gov</p> | <p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> Email</p> |

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| <p>David W. Gehlert Natural Resources Section Environment and Natural Resources Division U.S. Dept of Justice 1961 Stout St., 8th Floor Denver, CO 80294 david.gehlert@usdoj.gov</p> | <p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> Email</p> |
| <p>Matt J. Howard U.S. Bureau of Reclamation Pacific Northwest Region 1150 N. Curtis Road Boise, ID 83706-1234 mhoward@pn.usbr.gov</p> | <p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> Email</p> |
| <p>Sarah H. Klahn Mitra Pemberton White & Jankowski 511 16th Street, Ste 500 Denver, CO 80202 sarahk@white-jankowski.com</p> | <p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> Email</p> |
| <p>Michael C. Creamer Jeffrey C. Fereday Givens Pursley P.O. Box 2720 Boise, Idaho 83701-2720 mcc@givenspursley.com jcf@givenspursley.com</p> | <p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> Email</p> |
| <p>Dean Tranmer City of Pocatello P.O. Box 4169 Pocatello, Idaho 83205 dtranmer@pocatello.us</p> | <p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> Email</p> |

Candice Huff
