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DEPARTMENT OF
WATER RESOURCES

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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE 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

**IGWA'S PETITION TO BE
DESIGNATED AS RESPONDENT
OR ALTERNATIVELY TO
INTERVENE**

TO THE IDAHO DEPARTMENT OF WATER RESOURCES AND ALL INTERESTED PARTIES:

The Idaho Ground Water Appropriators, Inc., ("IGWA"), acting for and on behalf of its members, by and through counsel, hereby petitions to be designated as a "Respondent" or alternatively to intervene in the above-captioned proceeding pursuant to Rules of Procedure of the Idaho Department of Water Resources 154, 156, 350 through 354. (IDAPA 37.01.01 *et seq.*)¹

¹ For ease of citation, IDAPA 37.01.01 will be omitted and citation to the Department's Rules of Procedure will simply be by "Rule".

Rule 154 defines “Respondents” as “[p]ersons against whom complaints are filed or about whom investigations are initiated.” Rule 156 defines “Intervenors” as “[p]ersons, not applicants or claimants, appellants, complainants, respondents or protestants to a proceeding, who are permitted to participate as parties pursuant to Rules 350 through 354.....” Rule 350 states that “[p]ersons not applicants or claimants or appellants, petitioners, complainants, protestants, or respondents to a proceeding who claim a direct and substantial interest in the proceeding may petition for an order from the presiding officer granting intervention to become a party, if a formal hearing is required by statute to be held in the proceeding.” A timely-filed petition to intervene shall be granted if the petition “shows direct and substantial interest in any part of the subject matter of a proceeding and does not unduly broaden the issues,... unless the applicant's interest is adequately represented by existing parties.” Rule 353.

The *Final Order Regarding April 2012 Forecast Supply* (“2012 April Forecast Order”) which implements the *Second Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover* (“Methodology Order”) was issued by the Interim Director for the Department to predict material injury to reasonable in-season demand and reasonable carryover to members of the Surface Water Coalition as a result of junior ground water pumpers in the Eastern Snake Plain Aquifer. A step-by-step method was created to make this determination.

The Surface Water Coalition filed its *Petition Requesting Hearing on Director’s Final Order Regarding April 2012 Forecast Supply (Methodology Steps 1-8)/Motion to Authorize Discovery* on April 27, 2012.

IGWA represents Ground Water Districts whose members consist of hundreds of irrigators, municipalities, and commercial and industrial entities operating within the State of

Idaho. They are all owners of water rights that divert from the Eastern Snake Plain Aquifer asserting hydraulic connections to the Surface Water Coalition members' water rights. Additionally, IGWA has been and is a party to the various appeals and administrative proceedings which originated from the Director's September 5, 2008 Final Order as a result of the Surface Water Coalition's water delivery call. As a result of the various steps the Department has implemented, IGWA members may be obligated to mitigate for any injury determined by the Director through this methodology process, or face curtailment.

Based on the foregoing, IGWA, for and on behalf of its members, has a direct and substantial interest in this proceeding and therefore, meets the definition of a Respondent. For these reasons, IGWA should be so designated and permitted to participate in the above captioned matter. Alternatively, IGWA, for and on behalf of its members should be granted intervention in the above captioned matter and permitted to participate as an intervenor in this proceeding .

Submitted this 3rd day of May, 2012.

RACINE, OLSON, NYE, BUDGE &
BAILEY, CHARTERED

By: 
CANDICE M. MCHUGH
Attorney for IGWA

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 3rd day of May, 2012, I served a true and correct copy of this document on the persons listed below in the manner(s) indicated.

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c/o Victoria Wigle
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