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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

**SURFACE WATER COALITION'S  
PETITION FOR RECONSIDERATION  
AND REQUEST FOR HEARING ON  
FINAL ORDER ESTABLISHING 2013  
REASONABLE CARRYOVER (STEP 9)**

**MOTION TO AUTHORIZE  
DISCOVERY**

COME NOW, 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 (collectively hereafter referred to as the "Surface  
Water Coalition", "Coalition", or "SWC"), by and through counsel of record, and hereby submit

their *Petition for Reconsideration and Request for Hearing on Final Order Establishing 2013 Reasonable Carryover (Step 9) / Motion to Authorize Discovery* pursuant to Idaho Code § 42-1701A(3) and the Department's Rules of Procedure (IDAPA 37.01.01. *et seq.*).

### **INITIAL REASONS FOR PETITION**

First, IDWR has yet to provide the underlying background data to support the Director's Step 9 Order.<sup>1</sup> Consequently the Coalition cannot determine whether the stated quantities the Director is using in the order are accurate or not. The Coalition seeks reconsideration to the extent any of these are in error which cannot yet be determined. Next, the Coalition disputes the Director's finding that no entity suffered a "shortfall" during the 2013 irrigation season. The Coalition addressed this issue in its petition regarding the Director's August 27, 2013 Order.

Further, the Coalition cannot determine how IDWR implemented the "proportionate reduction" regarding the approved SWID/GCID mitigation plan. The Coalition therefore disputes the 10% number and requests reconsideration to ensure the number is accurate.

Finally, the Coalition disputes the Director's adjusted carryover shortfall and the methodology Steps 9 and 10 referenced in the order. The Coalition reserves all rights concerning this methodology and its application.

### **REQUEST FOR HEARING**

The SWC, pursuant to Idaho Code § 42-1701A(3) and Rule 740.02.b of the Department's Rules of Procedure, hereby requests a hearing on the Director's Step 9 Order. No administrative hearing has been held on the Director's implementation of the CM Rules and the Methodology Order for purposes of the reasonable carryover analysis in 2013. The SWC reserves the right to amend this petition as necessary.

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<sup>1</sup> Counsel for IDWR has represented that IDWR staff are compiling the information and that it will be sent out later this week.

**MOTION TO AUTHORIZE DISCOVERY**

The SWC hereby moves for order authorizing discovery in this matter pursuant to Rule 521 of the Department's Rules of Procedure. The SWC requests the opportunity to discover the factual basis and analysis performed by the Director in issuing the Step 9 Order.

DATED this 14<sup>th</sup> day of December, 2013.

**BARKER ROSHOLT & SIMPSON LLP**

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*Attorneys for Minidoka Irrigation  
District and American Falls  
Reservoir District #2*

## CERTIFICATE OF SERVICE

I hereby certify that on this 11<sup>th</sup> day of December, 2013, I served a true and correct copy of the foregoing *Surface Water Coalition's Petition for Reconsideration and Request for Hearing on Final Order Establishing 2013 Reasonable Carryover (Step 9) Motion to Authorize Discovery* on the following by the method indicated:

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