

John K. Simpson, ISB #4242  
Travis L. Thompson, ISB #6168  
Paul L. Arrington, ISB #7198  
**BARKER ROSHOLT & SIMPSON LLP**  
113 Main Ave. West, Suite 303  
Twin Falls, Idaho 83303-0485  
Telephone: (208) 733-0700  
Facsimile: (208) 735-2444

*Attorneys for A&B Irrigation District,  
Burley Irrigation District, Milner Irrigation District,  
North Side Canal Company, and Twin Falls Canal Company*

C. Tom Arkoosh, ISB #2253  
**CAPITOL LAW GROUP PLLC**  
P.O. Box 32  
Gooding, Idaho 83330  
Telephone: (208) 934-8872  
Facsimile: (208) 934-8873

*Attorneys for American Falls  
Reservoir District #2*

W. Kent Fletcher, ISB #2248  
**FLETCHER LAW OFFICE**  
P.O. Box 248  
Burley, Idaho 83318  
Telephone: (208) 678-3250  
Facsimile: (208) 878-2548

*Attorneys for Minidoka Irrigation  
District*

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

IN THE MATTER OF THE IDAHO	)	<b>CM-MP-2009-006</b>
GROUND WATER APPROPRIATORS,	)	
INC.'S MITIGATION PLAN FOR	)	<b>SURFACE WATER</b>
CONVERSIONS, DRY-UPS, AND	)	<b>COALITION'S MOTION FOR</b>
RECHARGE	)	<b>ISSUANCE OF A SUBPOENA</b>
	)	<b>FOR DEPOSITION OF GARY</b>
	)	<b>JOHNSON</b>
	)	
_____	)	

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

*Motion for Issuance of Subpoena for Deposition of Gary Johnson.* Through this motion the SWC requests the Director to issue a subpoena (form attached as Exhibit A) commanding Gary Johnson, Project Director of the Idaho Water Resources Research Institute (IWWRI) to appear at a deposition in the above-captioned matter scheduled to begin on June 14, 2010.

### **MOTION**

The Director issued an *Order Approving Mitigation Credits Regarding SWC Delivery Call* in this matter on May 17, 2010. In that decision, the Director concluded that the “degree of uncertainty associated with application of the ESPA Model is 10 percent.” *Order* at 4. The SWC identified the Director’s finding as one of the basis for its *Petition Requesting Hearing* in this matter filed on May 28, 2010.

The Director authorized discovery in this matter by order dated June 1, 2010. It is the Coalition’s understanding that Dr. Gary Johnson is the Project Director of IWWRI in Idaho Falls for the University of Idaho and was in charge of the development of the Eastern Snake Plain Aquifer Groundwater Model (ESPAM) under contract with IDWR. For purposes of the SWC’s petition and preparation for hearing in this matter, it is necessary for the SWC to obtain the testimony of Dr. Johnson relative to his personal knowledge about the development and application of the ESPAM. Dr Johnson has been involved with updates on the Eastern Snake River Plain ground water model and has considerable ground water modeling experience both on the ESPA and other aquifers in Idaho. It is our understanding that, during the development and recalibration of the ESPAM model, Dr. Johnson was in charge of IWRRI personnel involved in the project and has been intimately involved with the ESHMC (Eastern Snake Hydrologic Modelling Committee). Further, it the Coalition’s understanding that Dr. Johnson has run the ESPAM on both existing and proposed recharge activities and is familiar with how the ESPAM

is used to evaluate such actions both in the transient and steady state.

Since Dr. Johnson is not an employee of IDWR and is not affiliated with any party in this case, the attached subpoena may be necessary and should be issued without delay given the pending hearing set for June 29, 2010, approximately three weeks from today. For the above reasons, SWC requests the Director to grant this motion and issue the attached subpoena for deposition of Dr. Gary Johnson.

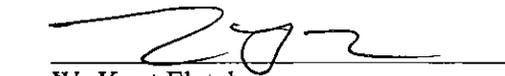
DATED this 7<sup>th</sup> day of June, 2010.

**BARKER ROSHOLT & SIMPSON LLP**

  
Travis L. Thompson

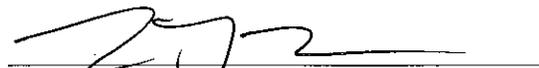
*Attorneys for A&B Irrigation District,  
Burley Irrigation District, Twin Falls Canal Company,  
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*Attorneys for Minidoka Irrigation  
District*

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C. Thomas Arkoosh

*Attorneys for American Falls Reservoir District #2*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 7<sup>th</sup> day of June, 2010, I served a true and correct copy of the foregoing *SWC Motion for Issuance of Subpoena of Gary Johnson* on the following by the method indicated:

<p>Interim Director Gary Spackman c/o Victoria Wigle State of Idaho Dept of Water Resources 322 E Front St Boise, ID 83720-0098 *** service by electronic mail and U.S. Mail</p> <p>facsimile -- 208-287-6700 <a href="mailto:gary.spackman@idwr.idaho.gov">gary.spackman@idwr.idaho.gov</a> <a href="mailto:victoria.wigle@idwr.idaho.gov">victoria.wigle@idwr.idaho.gov</a> <a href="mailto:chris.bromley@idwr.idaho.gov">chris.bromley@idwr.idaho.gov</a></p>	
<p>Randy Budge Candice McHugh Racine Olson P.O. Box 1391 Pocatello, ID 83204-1391 *** service by electronic mail only</p> <p><a href="mailto:rcb@racinelaw.net">rcb@racinelaw.net</a> <a href="mailto:cmm@racinelaw.net">cmm@racinelaw.net</a></p>	<p><i>Courtesy Copy:</i></p> <p>Dr. Gary Johnson Acting Director – IWWRI University of Idaho at Idaho Falls 1776 Science Center Dr., Suite 305 Idaho Falls, Idaho 83402</p> <p>*** service by electronic mail only</p> <p><a href="mailto:johnson@if.uidaho.edu">johnson@if.uidaho.edu</a></p>

  
\_\_\_\_\_  
Travis L. Thompson

# Exhibit A

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

IN THE MATTER OF THE IDAHO	)	<b>CM-MP-2009-006</b>
GROUND WATER APPROPRIATORS,	)	
INC.'S MITIGATION PLAN FOR	)	<b>SUBPOENA OF GARY</b>
CONVERSIONS, DRY-UPS, AND	)	<b>JOHNSON FOR DEPOSITION</b>
RECHARGE	)	
	)	
	)	
	)	
	)	
_____	)	

**THE IDAHO DEPARTMENT OF WATER RESOURCES TO:**

Dr. Gary Johnson  
Acting Director – IWWRI  
University of Idaho at Idaho Falls  
1776 Science Center Dr., Suite 305  
Idaho Falls, Idaho 83402

**YOU ARE COMMANDED:**

- to appear at the Hearing in this matter at the place, date and time specified below to testify in the above case.
- to appear at the place, date and time specified below to testify at the taking of a deposition in the above case.
- to produce or permit inspection and copying of the following documents or objects, including electronically stored information, at the place, date and time specified below.
- to permit inspection of the following premises at the date and time specified below.

**PLACE, DATE AND TIME:**

Idaho Department of Water Resources  
900 N. Skyline Dr., Suite A  
Idaho Falls, Idaho 83402

**Deposition is to begin starting on Monday June 14, 2010 at 9:00 a.m.**

You are further notified that if you fail to appear at the time and place specified above, or to produce or permit copying or inspection of the specified above that you may be held in contempt and that the aggrieved party may recover from you the sum of \$100 and all damages which the party may sustain by your failure to comply with this subpoena.

**BY ORDER OF THE DIRECTOR OF THE IDAHO DEPARTMENT OF WATER RESOURCES.**

DATED this \_\_\_\_\_ day of June, 2010.

\_\_\_\_\_  
GARY SPACKMAN, Interim Director