

LAW OFFICES OF

**RACINE OLSON NYE BUDGE & BAILEY  
CHARTERED**

W. MARCUS W. NYE  
RANDALL C. BUDGE  
JOHN A. BAILEY, JR.  
JOHN R. GOODELL  
JOHN B. INGELSTROM  
DANIEL C. GREEN  
BRENT O. ROCHE  
KIRK B. HADLEY  
FRED J. LEWIS  
ERIC L. OLSEN  
CONRAD J. AIKEN  
RICHARD A. HEARN, M.D.  
LANE V. ERICKSON  
FREDERICK J. HAHN, III  
DAVID E. ALEXANDER  
PATRICK N. GEORGE  
SCOTT J. SMITH  
JOSHUA D. JOHNSON  
STEPHEN J. MUHONEN  
CANDICE M. MCHUGH  
CAROL TIPPI VOLYN  
BRENT L. WHITING  
JONATHON S. BYINGTON  
DAVE BAGLEY  
THOMAS J. BUDGE  
JONATHAN M. VOLYN  
MARK A. SHAFFER  
JASON E. FLAIG

201 EAST CENTER STREET  
POST OFFICE BOX 1391  
POCATELLO, IDAHO 83204-1391

TELEPHONE (208) 232-6101  
FACSIMILE (208) 232-6109

[www.racinelaw.net](http://www.racinelaw.net)

SENDER'S E-MAIL ADDRESS: [rcb@racinelaw.net](mailto:rcb@racinelaw.net)

**BOISE OFFICE**  
101 SOUTH CAPITOL  
BOULEVARD, SUITE 208  
BOISE, IDAHO 83702  
TELEPHONE: (208) 395-0011  
FACSIMILE: (208) 433-0167

**IDAHO FALLS OFFICE**  
477 SHOUP AVENUE  
SUITE 107  
POST OFFICE BOX 50698  
IDAHO FALLS, ID 83405  
TELEPHONE: (208) 528-6101  
FACSIMILE: (208) 528-6109

**ALL OFFICES TOLL FREE**  
(877) 232-6101

LOUIS F. RACINE (1917-2005)  
WILLIAM D. OLSON, OF COUNSEL

June 10, 2010

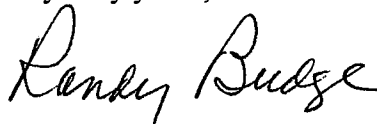
Clerk of the Court  
Minidoka County Courthouse  
715 G Street  
P.O. Box 368  
Rupert, Idaho 83350  
**Fax: 208-436-5272**

**Re: A&B District Court Appeal / Minidoka County Case No.: CV-2009-647**

Dear Clerk:

Enclosed for filing in the captioned matter please find *Ground Water Users' Petition for Rehearing*. Thank you.

Very truly yours,



RANDALL C. BUDGE

RR

RCB:rr  
Enclosure  
Cc: Service List

Randall C. Budge (ISB #1949)  
Candice M. McHugh (ISB #5908)  
Scott J. Smith (ISB #6014)  
RACINE OLSON NYE BUDGE &  
BAILEY, CHARTERED  
101 S. Capitol Boulevard, Suite 208  
Boise, Idaho 83702  
(208) 395-0011 – Telephone  
(208) 433-0167 – Facsimile

*Attorneys for Idaho Ground Water Appropriators, Inc.*

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF MINIDOKA**

A & B IRRIGATION DISTRICT,

Petitioner,

vs.

THE IDAHO DEPARTMENT OF WATER  
RESOURCES and GARY SPACKMAN in his  
official capacity as Interim Director of the Idaho  
Department of Water Resources,

Respondents.

Case No. CV-2009-647

**GROUND WATER USERS' PETITION  
FOR REHEARING**

IN THE MATTER OF THE PETITION FOR  
DELIVERY CALL OF A&B IRRIGATION  
DISTRICT FOR THE DELIVERY OF GROUND  
WATER AND FOR THE CREATION OF A  
GROUND WATER MANAGEMENT AREA

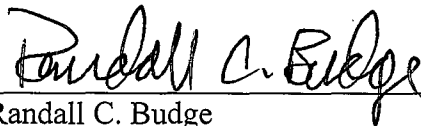
Idaho Ground Water Appropriators, Inc., North Snake Ground Water District, and Magic Valley Ground Water District, acting for and on behalf of their members (collectively, the "Ground Water Users"), respectfully petition for rehearing of the Court's *Memorandum Decision and Order on Petition for Judicial Review* dated May 4, 2010 (the "Order")<sup>1</sup> pursuant to Rule

<sup>1</sup> The Court's *Order of Extension Re: Filing Date of Memorandum Decision* extended the filing date of the *Memorandum Decision and Order on Petitions for Judicial Review* to May 20, 2010.

84(r) of the Idaho Rules of Civil Procedure and Rule 42 of the Idaho Appellate Rules. This petition seeks rehearing on the Court's ruling in section C.6 of the *Order* that junior-priority groundwater users must prove by clear and convincing evidence that material injury exists, that curtailment will result in waste, or that a delivery call is futile. The Ground Water Users will submit a supporting brief within fourteen (14) days after the filing date of this petition pursuant to Idaho Appellate Rule 42(b). The Ground Water Users reserve the right to raise additional issues for rehearing in its supporting brief.

DATED this 10<sup>th</sup> day of June, 2010.

RACINE, OLSON, NYE, BUDGE  
& BAILEY, CHARTERED



\_\_\_\_\_  
Randall C. Budge  
Candice M. McHugh  
Scott J. Smith

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10<sup>th</sup> day of June, 2010, the above and foregoing document was served in the following manner:

Deputy Clerk Clerk of Minidoka County Court 715 G Street PO Box 368 Rupert, ID 83350 Fax: (208) 436-5272	<input type="checkbox"/> U.S. Mail/Postage Prepaid <input checked="" type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery
Garrick L. Baxter Chris Bromley Deputy Attorneys General Idaho Department of Water Resources P.O. Box 83720 Boise, Idaho 83720-0098 <a href="mailto:garrick.baxter@idwr.idaho.gov">garrick.baxter@idwr.idaho.gov</a> <a href="mailto:chris.bromley@idwr.idaho.gov">chris.bromley@idwr.idaho.gov</a>	<input checked="" type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-Mail
John K. Simpson Travis L. Thompson Paul L. Arrington Sarah W. Higer Barker Rosholt P.O. Box 2139 Boise, Idaho 83701-2139 <a href="mailto:jks@idahowaters.com">jks@idahowaters.com</a> <a href="mailto:tlt@idahowaters.com">tlt@idahowaters.com</a> <a href="mailto:pla@idahowaters.com">pla@idahowaters.com</a>	<input checked="" type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-Mail
Sarah A. Klahn White & Jankowski LLP 511 Sixteenth Street, Suite 500 Denver, CO 80202 <a href="mailto:sarahk@white-jankowski.com">sarahk@white-jankowski.com</a>	<input checked="" type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-Mail
A. Dean Tranmer City of Pocatello PO Box 4169 Pocatello, ID 83201 <a href="mailto:dtranmer@pocatello.us">dtranmer@pocatello.us</a>	<input checked="" type="checkbox"/> U.S. Mail/Postage Prepaid <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-Mail

Jerry R. Rigby	<input checked="" type="checkbox"/>	U.S. Mail/Postage Prepaid
Rigby Andrus and Moeller	<input type="checkbox"/>	Facsimile
25 N 2 <sup>nd</sup> East	<input type="checkbox"/>	Overnight Mail
Rexburg, ID 83440	<input type="checkbox"/>	Hand Delivery
<a href="mailto:jrigby@rex-law.com">jrigby@rex-law.com</a>	<input checked="" type="checkbox"/>	E-Mail

  
\_\_\_\_\_  
RANDALL C. BUDGE