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**DISTRICT COURT OF THE STATE OF IDAHO
FIFTH JUDICIAL DISTRICT
GOODING COUNTY**

IDAHO GROUND WATER
APPROPRIATORS, INC.

Petitioner / Appellant,

vs.

CITY OF POCATELLO,

Petitioner / Respondent,

vs.

TWIN FALLS CANAL COMPANY,
NORTH SIDE CANAL COMPANY, A&B
IRRIGATION DISTRICT, AMERICAN
FALLS RESERVOIR DISTRICT #2,
BURLEY IRRIGATION DISTRICT,
MILNER IRRIGATION DISTRICT, and
MINIDOKA IRRIGATION DISTRICT,

Petitioners / Respondents,

vs.

GARY SPACKMAN, in his capacity as Di-
rector of the Idaho Department of Water
Resources, and the IDAHO DEPART-
MENT OF WATER RESOURCES,

Respondents / Respondents.

Consolidated Case No. CV-2010-382

Gooding County Cases:

CV-2010-382

CV-2010-383

CV-2010-384

CV-2010-387

CV-2010-388

Twin Falls County Cases:

CV-2010-3403

CV-2010-5520

CV-2010-5946

NOTICE OF APPEAL

Fee Category: L.4

Fee Amount: \$129.00

IN THE MATTER OF THE 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.

TO THE ABOVE-NAMED RESPONDENTS, THE CLERK OF THE COURT, AND THE PARTIES' ATTORNEYS AS IDENTIFIED ON THE CERTIFICATE OF SERVICE BELOW.

NOTICE IS HEREBY GIVEN THAT:

1. Idaho Ground Water Appropriators, Inc. ("IGWA"), acting for and on behalf of its members, appeals the *Memorandum Decision and Petition for Judicial Review* issued September 26, 2014, and the *Order Denying Petitions for Rehearing* issued November 17, 2014.

2. IGWA has a right to appeal to the Idaho Supreme Court pursuant to rule 11(f) of the Idaho Appellate Rules.

3. The following is a preliminary statement of the issues IGWA intends to assert on appeal:

- a) Does Idaho Code § 42-1701A or the constitutional guarantee of due process entitle junior water users to contest the reasonable in-season demand methodology for determining material injury to the SWC?
- b) Does Idaho law require the Director to calculate material injury based on the SWC's actual water supplies and water needs as opposed to dubious assumptions about the SWC's past diversions?
- c) Did the Director err by employing a mathematical equation to substantially under-predict the supply of water available to the SWC?
- d) Should the District Court's remand include an instruction to order curtailment based on actual injury as opposed to predicted injury?

4. No order has been entered sealing any portion of the record.

5. IGWA does not request a transcript of hearings before this Court, but does request a copy of the transcript from the agency proceedings before the Idaho Department of Water Resources, which were previously included in the record before this Court.

6. IGWA request that all pleadings, exhibits, briefs, attachments, and orders that are part of the agency record in this case, plus all documents automatically included in the record under Rule 28 of the Idaho Appellate Rules, be made a part of the clerk's record on appeal, including the clerk's record in the *A & B Irrigation District, et al. v. Tuthill*, Gooding County Case No. CV-2008-551.

7. I certify that:

- a) A copy of this notice of appeal has been served on the reporter.
- b) The fee required prepare of the reporter's transcript was paid in conjunction with the District Court's judicial review of this action.
- c) The estimated fee to prepare the clerk's record has been paid.
- d) Service has been made upon all parties required to be served pursuant to Rule 20.

DATED this 23rd day of December, 2014.

RACINE OLSON NYE BUDGE
& BAILEY, CHARTERED



Randall C. Budge
Thomas J. Budge

CERTIFICATE OF SERVICE

I certify that on this 23rd day of December, 2014, a true and correct copy of the foregoing document was served on the following persons in the manner indicated:



 Thomas J. Budge

Clerk of the Court SRBA Deputy Clerk 253 3 rd Ave. North P.O. Box 2707 Twin Falls, ID 83303-2707	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile: 208-736-2121 <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Email
Deputy Attorney General Garrick L. Baxter IDAHO DEPT. OF WATER RESOURCES P.O. Box 83720 Boise, Idaho 83720-0098 garrick.baxter@idwr.idaho.gov kimi.white@idwr.idaho.gov	<input type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> Email
W. Kent Fletcher FLETCHER LAW OFFICE P.O. Box 248 Burley, Idaho 83318-0248 wkf@pmt.org	<input type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> Email
John K. Simpson Travis L. Thompson Paul L. Arrington BARKER, ROSHOLT & SIMPSON 195 River Vista Place, Suite 204 Twin Falls, Idaho 83301-3029 jks@idahowaters.com tlt@idahowaters.com pla@idahowaters.com	<input type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> Email
Sarah Klahn Mitra Pemberton WHITE JANKOWSKI, LLP 511 16 th Street, Suite 500	<input type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Hand Delivery

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