



**I.**  
**MOTION**

On November 19, 2010, a *Petition for Judicial Review* was filed in the above-captioned matter seeking judicial review of a final decision of the Director of the Idaho Department of Water Resources (“IDWR”). On December 21, 2010, Petitioners filed a *Motion for Consolidation and Stay* in the above-captioned matter. The *Motion* requests that this Court consolidate this proceeding into Gooding County Case No. CV 2010-382 (“2010-382 Case”), which is presently pending before this Court, and that this Court stay this proceeding consistent with the stay presently imposed in the 2010-382 Case.<sup>1</sup> In the *Motion*, counsel for Petitioners represents that no party to this action opposes the *Motion*. No request for oral argument on the *Motion* has been made by any party, nor has any opposition to the *Motion* been filed by any party.

**II.**  
**ANALYSIS**

A court’s decision to grant or deny a request for consolidation is a discretionary one. *Branom v. Smith Frozen Foods of Idaho, Inc.*, 83 Idaho 502, 508, 365 P.2d 958, 961 (1961). The Idaho Supreme Court has directed that “whenever the court is of the opinion that it may expedite its business and further the interests of the litigants, at the same time minimizing the expense upon the public and the litigants alike, the order of consolidation should be made.” *Id.*

The final order from which Petitioners seek judicial review in this case is the *Final Order Revising April 2010 Forecast Supply (Methodology Steps 7)* and corresponding *Order Denying Request for Reconsideration* issued by the Director in IDWR Docket No. CM-DC-2010-001 (collectively, “*Final Order*”). The *Final Order* is one of a series of orders issued by the Director in response to a delivery call filed by Petitioners with IDWR in 2005. The orders of the Director currently under review before this Court by way of the *Petitions for Judicial Review* filed in the 2010-382 Case are

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<sup>1</sup> On December 13, 2010, this Court entered an *Order Granting Motion for Stay* in Gooding County Case No. CV 2010-382, staying that matter pending the Idaho Supreme Court’s issuance of its decision in *A&B Irrigation Dist., et al. v. Spackman, et al.*, Idaho Supreme Court Docket No. 38192-2010.

likewise orders issued by the Director in response to the delivery call filed by Petitions with IDWR in 2005 and involve, for the most part, the same parties.<sup>2</sup>

Therefore, this Court finds that the *Petition for Judicial Review* filed in the above-captioned matter, and the *Petitions* presently pending before this Court in the 2010-382 Case involve similar issues, similar parties, and that consolidation of this matter with the 2010-382 Case will expedite this Court's business in resolving the *Petitions for Judicial Review* and further the interests of the litigants.

Last, via this Court's *Order Granting Motion for Stay* issued on December 13, 2010 in the 2010-382 Case, the proceedings in that case are presently stayed pending the Idaho Supreme Court's issuance of its opinion in *A&B Irrigation Dist., et al. v. Spackman, et al.*, Idaho Supreme Court Docket No. 38192-2010. Therefore the proceedings in this matter, once consolidated with the 2010-382 Case, will be subject to the same stay, deadlines and conditions applicable to the proceedings in the 2010-382 Case as set forth in the December 13, 2010 *Order Granting Motion for Stay*.

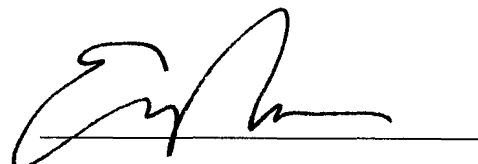
### III.

#### ORDER

THEREFORE, THE FOLLOWING ARE HEREBY ORDERED:

1. Petitioners' *Motion for Consolidation and Stay* is hereby **granted**.
2. The *Petition for Judicial Review* filed by Petitioners in this matter shall forthwith be consolidated into Gooding County Case No. CV 2010-382.
3. Once consolidated, all proceedings in Gooding County Case CV 2010-382 shall be subject to the same stay, deadlines and conditions set forth in this Court's December 13, 2010 *Order Granting Motion for Stay* issued in the 2010-382 Case prior to this consolidation.

Dated January 3, 2011



ERIC J. WILDMAN  
District Judge

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<sup>2</sup> The only person or entity that has appeared as a party in the 2010-382 Case but has not appeared as a party in the above-captioned matter is the City of Pocatello. The City of Pocatello was served with a copy of the *Motion* at issue here and has not appeared in this matter to file any response or objection to the same.

**CERTIFICATE OF MAILING**

I certify that a true and correct copy of the ORDER CONSOLIDATI  
PROCEEDING INTO GOODING COUNTY CASE NO. CV 2010-382 AND ORDER  
GRANTING MOTION FOR STAY was mailed on January 03, 2011, with  
sufficient first-class postage to the following:

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