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DEPARTMENT OF
WATER RESOURCES

Roger D. Ling, ISB No. 1018
LING ROBINSON & WALKER
P. O. Box 396
Rupert, Idaho 83350
Telephone (208) 436-4717
Facsimile (208) 436-6804

C. Tom Arkoosh, ISB No. 2253
ARKOOSH LAW OFFICES, CHTD.
P. O. Box 32
Gooding, Idaho 83330
Telephone (208) 934-8872
Facsimile (208) 934-8873

Attorneys for A & B Irrigation District
and Burley Irrigation District

Attorneys for American Falls
Reservoir District #2

John A. Rosholt, ISB No.1037
John K. Simpson, ISB No. 4242
Travis L. Thompson, ISB No. 6168
BARKER ROSHOLT & SIMPSON LLP
113 Main Ave. West, Suite 303
Twin Falls, Idaho 83301-6167
Telephone (208) 733-0700
Facsimile (208) 735-2444

W. Kent Fletcher, ISB No. 2248
FLETCHER LAW OFFICE
P. O. Box 248
Burley, Idaho 83318
Telephone (208) 678-3250
Facsimile (208) 878-2548

Attorneys for Minidoka Irrigation District

Attorneys for Milner Irrigation District,
North Side Canal Company, and
Twin Falls Canal Company

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

IN THE MATTER OF THE REQUEST FOR)
ADMINISTRATION IN WATER DISTRICT)
120 AND THE REQUEST FOR DELIVERY)
OF WATER TO SENIOR SURFACE WATER)
RIGHTS BY 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)
_____)

**SURFACE WATER
COALITION'S MOTION FOR
CLARIFICATION AND
SUPPLEMENTAL
INFORMATION
CONCERNING RECORD**

This Motion for Clarification and Supplemental Information Concerning Record
is filed on behalf of A&B Irrigation District, American Falls Reservoir District #2, Burley
SWC'S MOTION FOR CLARIFICATION AND SUPPLEMENTAL INFORMATION
CONCERNING RECORD

Irrigation District, Milner Irrigation District, Minidoka Irrigation District, North Side Canal Company, and Twin Falls Canal Company (hereinafter for the purpose of convenience collectively referred to as the “Surface Water Coalition” or “Coalition” or “SWC”).

FACTS

The Coalition hand delivered a letter to the Director on January 14, 2005, requesting administration of junior ground water rights within Water District No. 120 in 2005. *See January 14, 2005 Letter to Director.*

On April 19, 2005, the Director issued an order in response to the Coalition’s request for water right administration. This order was later amended on May 2, 2005 (“*May 2, 2005 Order*”). The Coalition and other parties have petitioned for the modification or amendment of the Director’s *May 2, 2005 Order*.

On July 22, the Director issued a Scheduling Order, setting the matter for hearing commencing January 30, 2006, and setting forth deadlines for disclosures and discovery.

The initial request for administration was handled by the Director as an informal proceeding pursuant to Procedure Rule 100, and a record was developed by the Director upon which the Director relied when issuing the *May 2, 2005 Order*.

The proceeding now before the Director is a formal proceeding pursuant to Procedure Rule 104. The Coalition is uncertain how matters considered by the Director in the informal proceeding will be considered by the Director when issuing a decision in the formal proceeding.

Procedure Rule 602 authorizes “official notice” of “any facts that could be judicially noticed in the courts of Idaho and of generally recognized technical or scientific facts with the agency’s specialized knowledge” and requires notice to the parties of specific facts and

SWC’S MOTION FOR CLARIFICATION AND SUPPLEMENTAL INFORMATION
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materials noticed and the source of the material noticed, including any agency staff memoranda and data.

Ultimately, the Director will be required to create a record of decision in the formal proceeding that, pursuant to Procedure Rule 650, can include "all staff memoranda or data submitted in connection with the consideration of the proceeding" and "matters officially noticed".

The Coalition is uncertain as to what materials, memoranda; "noticed matters" and other evidence in the record relied upon by the Director when issuing the *May 2, 2005 Order* will be part of the record in the formal proceeding. It is the belief of the Coalition, and will afford all parties greater due process and simplify discovery, if the Director discloses and itemizes those parts of the record relied upon by the Director in the informal proceeding that the Director also intends to consider in the formal proceeding.

REQUEST

The Coalition requests that the Director respond to this Motion and disclose and itemize all parts of the record relied upon by the Director in the informal proceeding that the Director intends to consider in this formal proceeding.

DATED this 12 day of August, 2005.

LING ROBINSON & WALKER

ARKOOSH LAW OFFICES CHTD.



Roger D. Ling
Attorneys for A & B Irrigation District
and Burley Irrigation District



C. Tom Arkoosh
Attorneys for American Falls
Reservoir District #2

FLETCHER LAW OFFICES

BARKER ROSHOLT & SIMPSON LLP



W. Kent Fletcher
Attorneys for Minidoka Irrigation District



John A. Rosholt
John K. Simpson
Travis L. Thompson
Attorneys for Milner Irrigation District,
North Side Canal Company, and
Twin Falls Canal Company

CERTIFICATE OF SERVICE

I hereby certify that on this 12 day of August, 2005, I served a true and correct copy of the foregoing *SURFACE WATER COALITION'S MOTION FOR CLARIFICATION AND SUPPLEMENTAL INFORMATION CONCERNING RECORD* on the following persons/entities, by the method indicated:

Josephine P. Beeman	<input checked="" type="checkbox"/> US Mail, ppd	Jeffrey C. Fereday	<input checked="" type="checkbox"/> US Mail, ppd
Beeman & Associates	<input type="checkbox"/> Facsimile	Michael C. Creamer	<input type="checkbox"/> Facsimile
409 W. Jefferson	<input checked="" type="checkbox"/> E-mail	Givens Pursley, LLP	<input checked="" type="checkbox"/> E-mail
Boise, Idaho 83702		P. O. Box 2720	
jo.beeman@beemanlaw.com		Boise, Idaho 83701-2720	
		jcf@givenspursley.com	
		mcc@givenspursley.com	
Scott L. Campbell	<input checked="" type="checkbox"/> US Mail, ppd	Michael S. Gilmore	<input checked="" type="checkbox"/> US Mail, ppd
Moffatt Thomas	<input type="checkbox"/> Facsimile	Ofc of the Attorney General	<input type="checkbox"/> Facsimile
P. O. Box 829	<input checked="" type="checkbox"/> E-mail	P. O. Box 83720	<input checked="" type="checkbox"/> E-mail
Boise, Idaho 83701		Boise, Idaho 83720-0010	
slc@moffatt.com		mike.gilmore@ag.idaho.gov	
Ronald D. Carlson	<input checked="" type="checkbox"/> US Mail, ppd	Sarah A. Klahn	<input checked="" type="checkbox"/> US Mail, ppd
Lewis Rounds	<input type="checkbox"/> Facsimile	White & Jankowski, LLP	<input type="checkbox"/> Facsimile
Idaho Dept. Water Resources	<input checked="" type="checkbox"/> E-mail	511 16 th Street, Suite 500	<input checked="" type="checkbox"/> E-mail
Eastern Regional Office		Denver, Colorado 80202	
900 N. Skyline St., Ste 200		sarahk@white-jankowski.com	
Idaho Falls, Idaho 83402-6105			
rcarlson@idwr.idaho.gov			
lewis.rounds@idwr.idaho.gov			
Kathleen Marion Carr	<input checked="" type="checkbox"/> US Mail, ppd	James S. Lochhead	<input checked="" type="checkbox"/> US Mail, ppd
Office of the Field Solicitor	<input type="checkbox"/> Facsimile	Adam T. Devoe	<input type="checkbox"/> Facsimile
550 W. Fort Street, MSC 020	<input checked="" type="checkbox"/> E-mail	Brownstein, Hyatt & Farber	<input checked="" type="checkbox"/> E-mail
Boise, Idaho 83724		410 17 th Street, 22 nd Floor	
kmarioncarr@yahoo.com		Denver, Colorado 80202	
		jlochhead@bhf-law.com	
		adevoe@bhf-law.com	

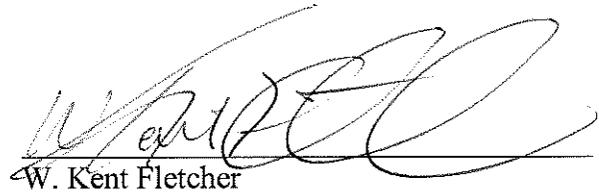
Karl J. Dreher, Director US Mail, ppd
Idaho Dept. Water Resources Facsimile
P. O. Box 83720 E-mail
Boise, Idaho 83720-0098
Attention - Administrative Assistant to Mr. Dreher:
victoria.wigle@idwr.idaho.gov

James C. Tucker US Mail, ppd
Idaho Power Company Facsimile
P. O. Box 70 E-mail
Boise, Idaho 83707-0070
jtucker@idahopower.com

Allen Merritt US Mail, ppd
Cindy Yenter Facsimile
Idaho Dept. Water Resources E-mail
1341 Fillmore St., Ste 200
Twin Falls, Idaho 83301-3033
allen.merritt@idwr.idaho.gov
cindy.yenter@idwr.idaho.gov

Matt Howard US Mail, ppd
U S Bureau of Reclamation Facsimile
1150 N. Curtis Road E-mail
Boise, Idaho 83706-1234
mhoward@pn.usbr.gov

Terry T. Uhling US Mail, ppd
J. R. Simplot Company Facsimile
P. O. Box 27 E-mail
Boise, Idaho 83707-0027
tuhling@simplot.com



W. Kent Fletcher