

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

IN THE MATTER OF 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 )  
)  
(Water District Nos. 34, 110, 120, and 130) )  
\_\_\_\_\_ )

**ORDER APPROVING  
STIPULATION AND  
JOINT MOTION FOR  
RESCHEDULED HEARING**

On June 20, 2007, the Director of the Department of Water Resources (“Director” or “Department”) issued an order in the above-entitled matter approving a stipulated hearing schedule and the use of pre-filed testimony and exhibits. The schedule provided for a hearing to commence on November 28, 2007.

On July 27, 2007, the Idaho Ground Water Appropriators, Inc. (“IGWA”), 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 (collectively referred to as the “Surface Water Coalition” or “Coalition”), filed with the Department a *Stipulation and Joint Motion for Rescheduled Hearing and Order* (“Stipulation”). The City of Pocatello and the United States Bureau of Reclamation did not sign the Stipulation but authorized the signing parties to represent that they will not object to the proposed rescheduling. Two other parties to the matter, the Idaho Dairymen’s Association (“IDA”) and the State Agency Ground Water Users (“SAGWU”), did not sign the Stipulation.

On July 31, 2007, IDA filed *Idaho Dairymen’s Association Response to Stipulation and Joint Motion for Revised Hearing Schedule and Order* (“IDA Response”). The IDA Response states, “IDA joins in paragraphs 3 and 4 of the Stipulation, and takes no position with respect to the balance of the Stipulation concerning the proposed amended hearing schedule.”

On August 1, 2007, SAGWU filed *State Agency Ground Water Users’ Joinder in Stipulation and Joint Motion for Rescheduled Hearing and Order* (“SAGWU Response”). The SAGWU Response joins in the Stipulation.

The Stipulation entered into between IGWA and the Surface Water Coalition provides as follows:

1. That the existing hearing schedule and prehearing deadlines be revised and the following schedule be adopted:

September 26, 2007	Deadline for updating expert reports previously disclosed; deadline for pre-filed direct testimony (required for retained consultants / optional for others), and all exhibits to be used at hearing with experts;
November 7, 2007	Deadline for rebuttal reports; deadline for pre-filed rebuttal testimony and all exhibits to be used in rebuttal;
November 14, 2007	Deadline to disclose all lay witnesses / identify all exhibits to be used at hearing with lay witnesses (as well as any pre-filed direct testimony for lay witnesses, if desired);
November 28, 2007	Deposition deadline / discovery completed deadline;
December 21, 2007	Written opening brief / trial brief (if desired);
January 4, 2008	Prehearing conference and hearing on prehearing motions; and
January 16 to February 6, 2008	Hearing.

2. No party to this stipulation will seek a continuance of the above schedule, unless for death, illness, or similar circumstances beyond their control.

3. No party to this stipulation will seek to disqualify the proposed designated hearing officer identified to the parties' counsel either with or without cause.

4. The parties to this stipulation agree to cooperate in good faith to timely complete prehearing discovery.

5. That the Director or Hearing Officer enter an Order approving this Stipulation and Joint Motion for Rescheduled Hearing and Order without oral argument or hearing. Counsel for the parties have contacted counsel for the City of Pocatello and the United States Bureau of Reclamation. The city and Reclamation do not join in this Stipulation and Motion, but authorize the parties to represent that they will not object to the proposed rescheduling.

6. If the Director or the Hearing Officer does not enter an Order approving the Stipulation and granting this Motion and the motion filed by Blue Lakes Trout Farm, Inc., Clear Springs Foods, Inc., and IGWA in the proceeding regarding Blue Lakes' Delivery Call and Clear Springs' Delivery Call, this

Stipulation shall not be binding upon any party, shall be deemed withdrawn, with the hearing remaining as scheduled by previous Order.

7. This Stipulation and Joint Motion for Rescheduled Hearing and Order is made upon the grounds and for the reasons that the foregoing Stipulation will avoid scheduling conflicts with the hearing schedule in the Blue Lakes and Clear Springs delivery calls, enable the parties to fully prepare for the hearings, and facilitate a timely and orderly disposition of all proceedings.

### ORDER

Based upon the *Stipulation and Joint Motion for Rescheduled Hearing and Order* filed by IGWA and the Surface Water Coalition, and the responses thereto filed by IDA and SAGWU, and good cause appearing therefor,

IT IS HEREBY ORDERED that the provisions of the foregoing Stipulation, including the revised hearing schedule and prehearing requirements, be and are hereby approved and shall bind the parties in accordance with their respective agreement to the same.

IT IS FURTHER ORDERED that any petition for intervention by additional persons or entities to become a party to this proceeding shall be considered only if they accept the designated hearing officer and the existing hearing and prehearing schedule.

Dated this 1<sup>st</sup> day of August, 2007.

  
\_\_\_\_\_  
DAVID R. TUTHILL, JR.  
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15<sup>th</sup> day of August, 2007, the above and foregoing, was served by the method indicated below, and addressed to the following:

TOM ARKOOSH  
ARKOOSH LAW OFFICES  
PO BOX 32  
GOODING ID 83330  
(208) 934-8873  
[alo@cableone.net](mailto:alo@cableone.net)

U.S Mail, Postage Prepaid  
 Facsimile  
 E-mail

W. KENT FLETCHER  
FLETCHER LAW OFFICE  
PO BOX 248  
BURLEY ID 83318-0248  
(208) 878-2548  
[wkf@pmt.org](mailto:wkf@pmt.org)

U.S. Mail, Postage Prepaid  
 Facsimile  
 E-mail

ROGER D. LING  
LING ROBINSON  
PO BOX 396  
RUPERT ID 83350-0396  
(208) 436-6804  
[lnrlaw@pmt.org](mailto:lnrlaw@pmt.org)

U.S. Mail, Postage Prepaid  
 Facsimile  
 E-mail

JOHN ROSHOLT  
TRAVIS THOMPSON  
BARKER ROSHOLT  
113 MAIN AVE WEST STE 303  
TWIN FALLS ID 83301-6167  
(208) 735-2444  
[jar@idahowaters.com](mailto:jar@idahowaters.com)  
[flt@idahowaters.com](mailto:flt@idahowaters.com)

U.S. Mail, Postage Prepaid  
 Facsimile  
 E-mail

JOHN SIMPSON  
BARKER ROSHOLT  
PO BOX 2139  
BOISE ID 83701-2139  
(208) 344-6034  
[jks@idahowaters.com](mailto:jks@idahowaters.com)

U.S. Mail, Postage Prepaid  
 Facsimile  
 E-mail

RANDY BUDGE  
CANDICE MCHUGH  
RACINE OLSON  
PO BOX 1391  
POCATELLO ID 83204-1391  
[rcb@racinelaw.net](mailto:rcb@racinelaw.net)  
[cmm@racinelaw.net](mailto:cmm@racinelaw.net)

U.S. Mail, Postage Prepaid  
 Facsimile  
 E-mail

KATHLEEN CARR  
U.S. DEPT INTERIOR  
960 BROADWAY STE 400  
BOISE ID 83706  
(208) 334-1378

U.S. Mail, Postage Prepaid  
 Facsimile  
 E-mail

JOSEPHINE BEEMAN  
BEEMAN & ASSOC.  
409 W JEFFERSON  
BOISE ID 83702  
(208) 331-0954  
[jo.beeman@beemanlaw.com](mailto:jo.beeman@beemanlaw.com)

U.S. Mail, Postage Prepaid  
 Facsimile  
 E-mail

MICHAEL GILMORE  
ATTORNEY GENERAL'S OFFC  
PO BOX 83720  
BOISE ID 83720-0010  
(208) 334-2830  
[mike.gilmore@ag.idaho.gov](mailto:mike.gilmore@ag.idaho.gov)

U.S. Mail, Postage Prepaid  
 Facsimile  
 E-mail

SARAH KLAHN  
WILLIAM A HILLHOUSE II  
AMY W BEATIE  
WHITE JANKOWSKI  
511 16<sup>TH</sup> ST STE 500  
DENVER CO 80202  
[sarahk@white-jankowski.com](mailto:sarahk@white-jankowski.com)  
[billh@white-jankowski.com](mailto:billh@white-jankowski.com)  
[amyb@white-jankowski.com](mailto:amyb@white-jankowski.com)

U.S. Mail, Postage Prepaid  
 Facsimile  
 E-mail

MICHAEL C. CREAMER  
GIVENS PURSLEY  
601 W BANNOCK  
PO BOX 2720  
BOISE ID 83701-2720  
[mcc@givenspursley.com](mailto:mcc@givenspursley.com)

U.S. Mail, Postage Prepaid  
 Facsimile  
 E-mail

COURTESY COPIES:

LYLE SWANK  
IDWR  
900 N SKYLINE DR  
IDAHO FALLS ID 83402-6105  
(208) 525-7177  
[lyle.swank@idwr.idaho.gov](mailto:lyle.swank@idwr.idaho.gov)

U.S. Mail, Postage Prepaid  
 Facsimile  
 E-mail

ALLEN MERRITT  
CINDY YENTER  
IDWR  
1341 FILLMORE ST STE 200  
TWIN FALLS ID 83301-3033  
(208) 736-3037  
[allen.merritt@idwr.idaho.gov](mailto:allen.merritt@idwr.idaho.gov)  
[cindy.yenter@idwr.idaho.gov](mailto:cindy.yenter@idwr.idaho.gov)

U.S. Mail, Postage Prepaid  
 Facsimile  
 E-mail

MATT HOWARD  
US BUREAU OF RECLAMATION  
1150 N CURTIS ROAD  
BOISE ID 83706-1234  
(208) 378-5003  
[mhoward@pn.usbr.gov](mailto:mhoward@pn.usbr.gov)

U.S. Mail, Postage Prepaid  
 Facsimile  
 E-mail

TERRY UHLING  
JR SIMPLOT CO  
999 MAIN STREET  
BOISE ID 83702  
[tuhling@simplot.com](mailto:tuhling@simplot.com)

U.S. Mail, Postage Prepaid  
 Facsimile  
 E-mail

JAMES TUCKER  
IDAHO POWER CO  
1221 W IDAHO ST  
BOISE ID 83702  
[jamestucker@idahopower.com](mailto:jamestucker@idahopower.com)

U.S. Mail, Postage Prepaid  
 Facsimile  
 E-mail

JAMES LOCHHEAD  
ADAM DEVOE  
BROWNSTEIN HYATT  
410 17<sup>TH</sup> ST 22<sup>ND</sup> FLOOR  
DENVER CO 80202  
[jlochhead@bhf-law.com](mailto:jlochhead@bhf-law.com)  
[adevoe@bhf-law.com](mailto:adevoe@bhf-law.com)

U.S. Mail, Postage Prepaid  
 Facsimile  
 E-mail



Victoria Wigle  
Administrative Assistant to the Director  
Idaho Department of Water Resources