

John K. Simpson, ISB #4242
Travis L. Thompson, ISB #6168
Paul L. Arrington, ISB #7198
BARKER ROSHOLT & SIMPSON LLP
113 Main Ave. West, Suite 303
Twin Falls, Idaho 83303-0485
Telephone: (208) 733-0700
Facsimile: (208) 735-2444

*Attorneys for A&B Irrigation District,
Burley Irrigation District, Milner Irrigation District,
North Side Canal Company, and Twin Falls Canal Company*

C. Tom Arkoosh, ISB #2253
CAPITOL LAW GROUP PLLC
P.O. Box 32
Gooding, Idaho 83330
Telephone: (208) 934-8872
Facsimile: (208) 934-8873

*Attorneys for American Falls
Reservoir District #2*

W. Kent Fletcher, ISB #2248
FLETCHER LAW OFFICE
P.O. Box 248
Burley, Idaho 83318
Telephone: (208) 678-3250
Facsimile: (208) 878-2548

*Attorneys for Minidoka Irrigation
District*

**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)
_____)

Docket Nos. CM-DC-2010-001
CM-MP-2009-007

**SWC MOTION FOR ISSUANCE OF
SUBPOENAS DUCES TECUM OF
TIMOTHY P. DEEG**

COME NOW, 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 Company (collectively hereafter referred to as the "Surface Water

Coalition” or “Coalition” or “SWC”), by and through counsel of record, and hereby submit this *Motion for Issuance of Subpoenas Duces Tecum of Timothy P. Deeg*. Through this motion the SWC requests the Director to issue subpoenas duces tecum (form attached as Exhibit A) commanding Timothy Deeg, President of the Idaho Ground Water Appropriators, Inc. to appear at the hearings in the above-captioned matters scheduled to begin on May 24, 2010.

MOTION

In response to the Director’s April 29, 2010 *Order Regarding April 2010 Forecast Supply (Methodology Steps 3 & 4)* IGWA submitted a *Notice of Water Secured and Renewed Request for Stay* on May 13, 2010. IGWA also filed the *Second Affidavit of Timothy P. Deeg* in support of its notice. Mr. Deeg has apparently signed and is familiar with certain storage water lease agreements and options executed by IGWA for the 2010 irrigation season. The Coalition seeks to cross-examine Mr. Deeg on these matters, as well as any information he has to support IGWA’s Mitigation Plan. Accordingly, the attached subpoenas are necessary and should be issued in this matter immediately. For the above reasons, SWC requests the Director to grant this motion and issue the attached subpoenas duces tecum.

DATED this 21st day of May, 2010.

BARKER ROSHOLT & SIMPSON LLP


Travis L. Thompson

*Attorneys for A&B Irrigation District,
Burley Irrigation District, Twin Falls Canal Company,
North Side Canal Company, and Milner Irrigation District*

FLETCHER LAW OFFICE


W. Kent Fletcher

*Attorneys for Minidoka Irrigation
District*

CAPITOL LAW GROUP PLLC


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

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of May, 2010, I served a true and correct copy of the foregoing *SWC Motion for Issuance of Subpoenas Duces Tecum of Timothy P. Deeg* on the following by the method indicated:

<p>Interim Director Gary Spackman c/o Victoria Wigle State of Idaho Dept of Water Resources 322 E Front St Boise, ID 83720-0098 *** service by electronic mail and U.S. Mail</p> <p>facsimile – 208-287-6700 gary.spackman@idwr.idaho.gov victoria.wigle@idwr.idaho.gov chris.bromley@idwr.idaho.gov</p>	<p>Matt Howard USBR 1150 N. Curtis Rd. Boise, ID 83706-1234 mhoward@pn.usbr.gov</p> <p>IDWR – Eastern Region 900 N. Skyline Dr., Suite A Idaho Falls, ID 83402-1718</p> <p>IDWR – Southern Region 1341 Fillmore St., Suite 200 Twin Falls, ID 83301-3380</p>	<p>Josephine P. Beeman, Esq. Beeman & Associates 409 W Jefferson Boise, ID 83702 *** service by electronic mail only</p> <p>facsimile – 208-331-0954 jo.beeman@beemanlaw.com</p>
<p>Randy Budge Candice McHugh Racine Olson P.O. Box 1391 Pocatello, ID 83204-1391 *** service by electronic mail only</p> <p>rcb@racinelaw.net cmm@racinelaw.net</p>	<p>Sarah A. Klahn Mitra Pemberton White & Jankowski, LLP 511 Sixteenth Street, Suite 500 Denver, CO 80202 *** service by electronic mail only</p> <p>facsimile – 303-825-5632 sarahk@white-jankowski.com mitrap@white-jankowski.com</p>	<p>Michael Gilmore Deputy Attorney General Statehouse, Room 210 P.O. Box 83720 Boise, ID 83720-0010 *** service by electronic mail only</p> <p>facsimile – 208-334-2830 mike.gilmore@ag.idaho.gov</p>
<p>A. Dean Tranmer City of Pocatello P.O. Box 4169 Pocatello, ID 83201 *** service by electronic mail only</p> <p>facsimile – 208-234-6297 dtranmer@pocatello.us</p>	<p>Terry T. Uhling J.R. Simplot Company 999 Main St. P.O. Box 27 Boise, ID 83707 *** service by electronic mail only</p> <p>Facsimile – 208.389.7464 tuhling@simplot.com</p>	<p>James Lochhead Adam DeVoe Brownstein Hyatt 410 – 17th St 22nd Floor Denver, CO 80202 *** service by electronic mail only</p> <p>jlochhead@bhf-law.com adevoe@bhf-law.com</p>
<p>Michael C Creamer Jeffrey C. Fereday Givens Pursley 601 W Bannock St Ste 200 P.O. Box 2720 Boise, ID 83701-2720 *** service by electronic mail only</p> <p>mcc@givenspursley.com jcf@givenspursley.com</p>	<p>Kathleen Carr US Dept Interior, Office of Solicitor Pacific Northwest Region, Boise Field Office 960 Broadway Ste 400 Boise, ID 83706 *** service by electronic mail only</p> <p>facsimile – 208-334-1918 kmarioncarr@yahoo.com</p>	<p>James Tucker Idaho Power Co 1221 W Idaho St Boise, ID 83702 *** service by electronic mail only</p> <p>jamestucker@idahopower.com</p>


 Travis L. Thompson

Exhibit
A

**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)
_____)

Docket Nos. CM-DC-2010-001

**SUBPOENA DUCES TECUM OF
TIMOTHY P. DEEG**

THE IDAHO DEPARTMENT OF WATER RESOURCES TO:

Timothy P. Deeg, President (IGWA)
2957 Deeg Road
American Falls, Idaho 83211

YOU ARE COMMANDED:

to appear at the Hearing in this matter at the place, date and time specified below to testify in the above case.

to appear at the place, date and time specified below to testify at the taking of a deposition in the above case.

to produce or permit inspection and copying of the following documents or objects, including electronically stored information, at the place, date and time specified below.

- (1) all documents relied upon, incorporated, produced, or utilized by you in connection with *IGWA's Notice of Water Secured and Renewed Request for Stay*; the *Supplement to IGWA's Notice of Secured Water*, and any affidavits filed by you in this matter.
- (2) copies of all lease agreements, options, letters or other written confirmation, without redactions, between IGWA and any entity offering storage water to IGWA for 2010 that relates to the Surface Water Coalition delivery call and the Clear Springs Foods, Inc. Snake River Farms delivery call;

- (3) copies of any correspondence between IGWA and IDWR and/or Water District 01 regarding any lease agreements, options, letters or other written confirmation related to storage water in the Upper Snake River Basin for 2010 to be used for any purpose, including mitigation obligations that relate to the Surface Water Coalition delivery call and the Clear Springs Foods, Inc. Snake River Farms delivery call.
- (4) all documents you have reviewed and will review in preparation for this Hearing.

[] to permit inspection of the following premises at the date and time specified below.

PLACE, DATE AND TIME:

Idaho Department of Water Resources
322 E. Front St.
Boise, Idaho 83702-0098

Hearing is to begin after hearing starting on Monday May 24, 2010 at 9:00 a.m.

You are further notified that if you fail to appear at the time and place specified above, or to produce or permit copying or inspection of the specified above that you may be held in contempt and that the aggrieved party may recover from you the sum of \$100 and all damages which the party may sustain by your failure to comply with this subpoena.

BY ORDER OF THE DIRECTOR OF THE IDAHO DEPARTMENT OF WATER RESOURCES.

DATED this _____ day of May 2010.

GARY SPACKMAN, Interim Director

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

IN THE MATTER OF THE IDAHO GROUND)
WATER APPROPRIATORS, INC.'S) Docket No.: CM-MP-2009-007
MITIGATION PLAN IN RESPONSE TO THE) **SUBPOENA DUCES TECUM OF**
SURFACE WATER COALITION'S WATER) **TIMOTHY P. DEEG**
DELIVERY CALL)
_____))

THE IDAHO DEPARTMENT OF WATER RESOURCES TO:

Timothy P. Deeg, President (IGWA)
2957 Deeg Road
American Falls, Idaho 83211

YOU ARE COMMANDED:

- [X] to appear at the Hearing in this matter at the place, date and time specified below to testify in the above case.
- [] to appear at the place, date and time specified below to testify at the taking of a deposition in the above case.
- [X] to produce or permit inspection and copying of the following documents or objects, including electronically stored information, at the place, date and time specified below.
 - (1) all documents relied upon, incorporated, produced, or utilized by you in connection with *IGWA's Mitigation Plan for the Surface Water Delivery Call* dated November 9, 2009, *IGWA's Notice of Water Secured and Renewed Request for Stay*; the *Supplement to IGWA's Notice of Secured Water*, and any affidavits filed by you related to those matters.
 - (2) copies of all lease agreements, options, letters or other written confirmation, without redactions, between IGWA and any entity offering storage water to IGWA for 2010 that relates to the Surface Water Coalition delivery call and the Clear Springs Foods, Inc. Snake River Farms delivery call;
 - (3) copies of any correspondence between IGWA and IDWR and/or Water

District 01 regarding any lease agreements, options, letters or other written confirmation related to storage water in the Upper Snake River Basin for 2010 to be used for any purpose, including mitigation obligations that relate to the Surface Water Coalition delivery call and the Clear Springs Foods, Inc. Snake River Farms delivery call.

- (4) all documents relied upon, incorporated, produced, or utilized by you in connection with preparation of *IGWA's Mitigation Plan for the Surface Water Delivery Call* dated November 9, 2009.
- (5) all documents you have reviewed and will review in preparation for this Hearing.

[] to permit inspection of the following premises at the date and time specified below.

PLACE, DATE AND TIME:

Idaho Department of Water Resources
322 E. Front St.
Boise, Idaho 83702-0098

Hearing is to begin following hearings starting on Monday May 24, 2010 at 9:00 a.m.

You are further notified that if you fail to appear at the time and place specified above, or to produce or permit copying or inspection of the specified above that you may be held in contempt and that the aggrieved party may recover from you the sum of \$100 and all damages which the party may sustain by your failure to comply with this subpoena.

BY ORDER OF THE DIRECTOR OF THE IDAHO DEPARTMENT OF WATER RESOURCES.

DATED this _____ day of May 2010.

GARY SPACKMAN, Interim Director