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,

TO THE IDAHO DEPARTMENT OF WATER RESOURCES AND ALL INTERESTED PARTIES:

The Idaho Ground Water Appropriators, Inc., ("IGWA"), acting for and on behalf of its members, by and through counsel, hereby petitions to be designated as a "Respondent" or alternatively to intervene in the above-captioned proceeding pursuant to Rules of Procedure of the Idaho Department of Water Resources 154, 156, 350 through 354. (IDAPA 37.01.01 et seq.)

1 For ease of citation, IDAPA 37.01.01 will be omitted and citation to the Department’s Rules of Procedure will simply be by “Rule”.

IGWA’S PETITION TO BE DESIGNATED AS RESPONDENT OR ALTERNATIVELY TO INTERVENE
Rule 154 defines "Respondents" as "[p]ersons against whom complaints are filed or about whom investigations are initiated." Rule 156 defines "Intervenors" as "[p]ersons, not applicants or claimants, appellants, complainants, respondents or protestants to a proceeding, who are permitted to participate as parties pursuant to Rules 350 through 354....." Rule 350 states that "[p]ersons not applicants or claimants or appellants, petitioners, complainants, protestants, or respondents to a proceeding who claim a direct and substantial interest in the proceeding may petition for an order from the presiding officer granting intervention to become a party, if a formal hearing is required by statute to be held in the proceeding." A timely-filed petition to intervene shall be granted if the petition "shows direct and substantial interest in any part of the subject matter of a proceeding and does not unduly broaden the issues,... unless the applicant's interest is adequately represented by existing parties." Rule 353.

The Final Order Regarding April 2012 Forecast Supply ("2012 April Forecast Order") which implements the Second Amended Final Order Regarding Methodology for Determining Material Injury to Reasonable In-Season Demand and Reasonable Carryover ("Methodology Order") was issued by the Interim Director for the Department to predict material injury to reasonable in-season demand and reasonable carryover to members of the Surface Water Coalition as a result of junior ground water pumpers in the Eastern Snake Plain Aquifer. A step-by-step method was created to make this determination.

The Surface Water Coalition filed its Petition Requesting Hearing on Director's Final Order Regarding April 2012 Forecast Supply (Methodology Steps 1-8)/Motion to Authorize Discovery on April 27, 2012.

IGWA represents Ground Water Districts whose members consist of hundreds of irrigators, municipalities, and commercial and industrial entities operating within the State of
Idaho. They are all owners of water rights that divert from the Eastern Snake Plain Aquifer asserting hydraulic connections to the Surface Water Coalition members' water rights. Additionally, IGWA has been and is a party to the various appeals and administrative proceedings which originated from the Director's September 5, 2008 Final Order as a result of the Surface Water Coalition's water delivery call. As a result of the various steps the Department has implemented, IGWA members may be obligated to mitigate for any injury determined by the Director through this methodology process, or face curtailment.

Based on the foregoing, IGWA, for and on behalf of its members, has a direct and substantial interest in this proceeding and therefore, meets the definition of a Respondent. For these reasons, IGWA should be so designated and permitted to participate in the above captioned matter. Alternatively, IGWA, for and on behalf of its members should be granted intervention in the above captioned matter and permitted to participate as an intervenor in this proceeding.

Submitted this 3rd day of May, 2012.

RACINE, OLSON, NYE, BUDGE & BAILEY, CHARTERED

By: CANDICE M. MCHUGH

Attorney for IGWA
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 3rd day of May, 2012, I served a true and correct copy of this document on the persons listed below in the manner(s) indicated.

Interim Director Gary Spackman
    c/o Victoria Wigle
    State of Idaho
    Dept of Water Resources
    322 E Front St
    Boise, ID 83720-0098

☑ U.S. Mail/Postage Prepaid
☐ Facsimile
☐ Overnight Mail
☐ Hand Delivery
☐ E-mail

Garrick Baxter
    Chris Bromley
    Attorney General’s Office
    Idaho Department of Water Resources
    P.O. Box 83720
    Boise, Idaho 83720-0098

☑ U.S. Mail/Postage Prepaid
☐ Facsimile
☐ Overnight Mail
☐ Hand Delivery
☐ E-mail

John K. Simpson
    Travis L. Thompson
    Paul L. Arrington
    PO Box 485
    Twin Falls, ID 83303-0485

☑ U.S. Mail/Postage Prepaid
☐ Facsimile
☐ Overnight Mail
☐ Hand Delivery
☐ E-mail

C. Thomas Arkoosh
    Capitol Law Group PLLC
    PO Box 32
    Gooding, ID 83330

☑ U.S. Mail/Postage Prepaid
☐ Facsimile
☐ Overnight Mail
☐ Hand Delivery
☐ E-mail

W. Kent Fletcher
    Fletcher Law Office
    PO Box 248
    Burley, ID 83318

☑ U.S. Mail/Postage Prepaid
☐ Facsimile
☐ Overnight Mail
☐ Hand Delivery
☐ E-mail

Michael C. Creamer
    Jeffrey C. Fereday
    Givens Pursley
    601 W Bannock St, Ste 200
    PO Box 2720
    Boise, ID 83701-2720

☑ U.S. Mail/Postage Prepaid
☐ Facsimile
☐ Overnight Mail
☐ Hand Delivery
☐ E-mail
Sarah A. Klahn  
Mitra Pemberton  
White & Jankowski, LLP  
511 Sixteenth Street, Suite 500  
Denver, CO 80202  

William A. Parsons  
Parsons, Smith & Stone LLP  
PO Box 910  
Burley, ID 83318  

Kathleen Carr  
US Dept of Interior, Office of Solicitor  
Pacific Northwest Region  
960 Broadway, Ste 400  
Boise, ID 83706  

David Gehlert  
ENRD – DOJ  
999 18th St  
South Terrace, Suite 370  
Denver, CO 80202  

A. Dean Tranmer  
City of Pocatello  
PO Box 4169  
Pocatello, ID 83201  

☐ U.S. Mail/Postage Prepaid  
☐ Facsimile  
☐ Overnight Mail  
☐ Hand Delivery  
☐ E-mail  

☐ U.S. Mail/Postage Prepaid  
☐ Facsimile  
☐ Overnight Mail  
☐ Hand Delivery  
☐ E-mail  

☐ U.S. Mail/Postage Prepaid  
☐ Facsimile  
☐ Overnight Mail  
☐ Hand Delivery  
☐ E-mail  

☐ U.S. Mail/Postage Prepaid  
☐ Facsimile  
☐ Overnight Mail  
☐ Hand Delivery  
☐ E-mail  

☐ U.S. Mail/Postage Prepaid  
☐ Facsimile  
☐ Overnight Mail  
☐ Hand Delivery  
☐ E-mail  

Candice M. McHugh