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*Attorneys for Idaho Ground Water Appropriators, Inc.*

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF MINIDOKA**

A & B IRRIGATION DISTRICT,

Petitioner, Petitioner on Appeal

vs.

THE IDAHO DEPARTMENT OF WATER  
RESOURCES and GARY SPACKMAN in his  
official capacity as Interim Director of the Idaho  
Department of Water Resources,

Respondents, Petitioners on Appeal

and

THE IDAHO GROUND WATER  
APPROPRIATORS, INC., and THE CITY OF  
POCATELLO,

Intervenors -- Petitioners on Appeal, and

FREMONT-MADISON IRRIGATION  
DISTRICT, ROBERT & SUE HUSKINSON,  
SUN-GLO INDUSTRIES, VAL  
SCHWENDIMAN FARMS, INC., DAVID  
SCHWENDIMAN FARMS, INC., DARRELL  
C. NEVILLE, SCOTT C. NEVILLE, AND  
STAND D. NEVILLE,

Intervenors.

Case No. CV-2009-647

**GROUND WATER USERS'  
NOTICE OF APPEAL**

**FEE CATEGORY: 1**

**FEE AMOUNT: \$101**

IN THE MATTER OF THE PETITION FOR  
DELIVERY CALL OF A&B IRRIGATION  
DISTRICT FOR THE DELIVERY OF  
GROUND WATER AND FOR THE  
CREATION OF A GROUND WATER  
MANAGEMENT AREA

TO: THE ABOVE-NAMED RESPONDENTS, A&B IRRIGATION DISTRICT, AND THE IDAHO DEPARTMENT OF WATER RESOURCES, CITY OF POCA TELLO, AND THE PARTIES' ATTORNEYS AS IDENTIFIED ON THE CERTIFICATE OF SERVICE BELOW; AND THE CLERK OF THE ABOVE ENTITLED COURT.

NOTICE IS HEREBY GIVEN THAT:

1. The above named Appellant, IDAHO GROUND WATER APPROPRIATORS, INC. ("IGWA" or "Ground Water Users") for and on behalf of its members, appeals against the above named respondents to the Idaho Supreme Court from the District Court's *Judgment* dated November 23, 2010, Honorable Eric J. Wildman presiding. The *Judgment* incorporates the Court's *Memorandum Decision and Order on Petition for Judicial Review* dated May 4, 2010 and the Court's *Memorandum Decision and Order on Petitions for Rehearing* dated November 2, 2010.

2. The Appellants have a right to appeal to the Idaho Supreme Court, and the *Judgment* is appealable pursuant to Rule 11(f) of the Idaho Appellate Rules.

3. The Appellants intend to assert the following preliminary issues on appeal, provided this list of issues shall not prevent the appellant from asserting other issues on appeal:

- a. Whether the District Court erred in holding that a senior is presumed to suffer material injury any time he receives less than the maximum amount of water authorized under the water right, unless and until junior users prove otherwise by "clear and convincing" evidence.

4. No order has been entered sealing any portion of the record.

5. The Appellant requests that the transcript of the administrative proceedings held before the Idaho Department of Water Resources be made a part of the record on appeal. The Appellant currently possesses a copy of the transcript, as it was previously prepared in conjunction with the District Court's judicial review of this action. A copy of the transcript may be obtained from Idaho Department of Water Resources.

6. The Appellant requests that all pleadings, briefs, and attachments filed in this case plus all other documents in the clerk's record automatically included under Rule 28 of the Idaho Appellate Rules be made part of the record.

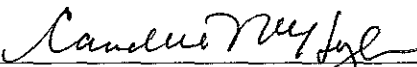
7. The Appellant requests that all of the exhibits included in the agency record be copied and sent to the Supreme Court.

8. I certify:

- a. That a copy of this notice of appeal has been served on the reporter.
- b. That the fee required for the preparation of the reporter's transcript was paid in conjunction with the District Court's judicial review of this action.
- c. That the estimated fee for preparation of the clerk's record has been paid.
- d. That service has been made upon all parties required to be served pursuant to Rule 20.

DATED, this 3rd day of January, 2011.

RACINE, OLSON, NYE, BUDGE &  
BAILEY, CHARTERED

By:   
RANDALL C. BUDGE  
CANDICE M. MCHUGH  
THOMAS J. BUDGE

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 3rd day of January, 2011, the above and foregoing document was served in the following manner:

Deputy Clerk  
Clerk of Minidoka County Court  
715 G Street  
PO Box 368  
Rupert, ID 83350

- U.S. Mail/Postage Prepaid
- Facsimile 208-436-5272
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- Hand Delivery
- E-mail

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Chris Bromley  
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Idaho Department of Water Resources  
P.O. Box 83720  
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A handwritten signature in cursive script, appearing to read "Candace Rigby", is written over a horizontal line.