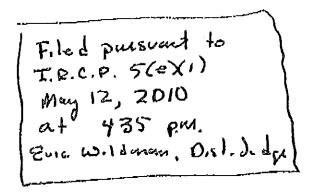
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Attorneys for Petitioners



IN THE SRBA DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT

Actual Levons
OF THE STATE OF IDAMO, IN AND FOR THE COUNTY OF TWIN FALLS

IDATIO GROUND WATER
APPROPRIATORS, INC., ABERDEENAMERICAN FALLS GROUND WATER
DISTRICT, and BINGHAM GROUND
WATER DISTRICT

Petitioners,

VS.

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

Respondents.

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.

Case No.

PETITION FOR JUDICIAL REVIEW

Fee Category: R-2 Fee Amount: \$78.00

Aburdeen-American Falls

IDAHO GROUND WATER APPROPRIATORS, INC., MAGIC VALLEY GROUND WATER DISTRICT, and NORTH SNAKE GROUND WATER DISTRICT, acting for and on behalf of their members, respectfully petition the Court for judicial review pursuant to Idaho Code §§ 67-5270 through 67-5279 and Rule 84 of the Idaho Rules of Civil Procedure.

PETITION FOR JUDICIAL REVIEW

- 1. This Petition requests judicial review of agency action taken by Gary Spackman (the "Director") in his official capacity as Interim Director of the Idaho Department of Water Resources ("IDWR").
- 2. This Petition is taken to the SRBA District Court of the Fifth Judicial District of the State of Idaho, in and for the County of Twin Falls. Venue is proper pursuant to the Administrative Order issued by the Supreme Court of the State of Idaho on December 9, 2002, apprenting the SRBA District Court to hear all petitions for judicial review of agency actions taken by the Supreme of lands Contemplated to be Cuutailed taken by the Supreme of lands Contemplated to be Cuutailed
- One located in hundoka County and IGWA weember Mas.

 3. This Petition seeks judicial review of the Order Regarding April 2010 Forecast Supply (Methodology Steps 3 & 4) ("As-Applied Order") issued by the Director on April 29, 2010. The As-Applied Order is a preliminary, procedural, or intermediate agency action that is immediately reviewable pursuant to Idaho Code § 67-5271(2) because review of the final agency action will not provide an adequate remedy.
 - 4. No hearing has been held before the Director or IDWR.
 - 5. The Petitioners request judicial review of the following issues:
 - a. Whether the Director erred by calculating the water demand of the calling senior water users based solely on past headgate deliveries, without considering whether the seniors are currently irrigating the full number of acres authorized under their water rights.
 - b. Whether the Director erred by requiring junior-priority ground water users to supply more water as mitigation than would accrue to the calling senior water users from curtailment.
 - c. Whether the Director erred by requiring junior-priority ground water users to provide mitigation to American Falls Reservoir District No. 2 (AFRD2) or suffer curtailment, even though curtailment will not provide additional water to AFRD2,
 - d. Whether the Director erred by requiring junior-priority ground water users

to mitigate for evaporation from the Upper Snake River Basin reservoir system.

e. Whether the Director erred by enforcing the As-Applied Order before holding a hearing to consider legal and factual defenses to the Order.

The Petitioners reserve the right to assert other issues as allowed by Rule 84 of the Idaho Rules of Civil Procedure.

- 6. Since there has been no hearing, the Petitioners do not request a transcript.
- 7. The undersigned certifies that the Petitioners have paid to IDWR the estimated fee for the preparation of the record. The undersigned further certifies that she verbally notified legal counsel for the Director of this Petition, have served a digital copy of this Petition upon legal counsel for the Director by email, and have served a hard copy of this Petition on the Director by mail.

DATED this 12th day of May, 2010.

RACINE OLSON NYE BUDGE & BAILEY, CHARTERED

y: <u>(Andue/7)</u> Candice M. McHugh

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of May, 2010, the above and foregoing document was served in the following manner:

Gary Spackman, Interim Director Idaho Department of Water Resources P.O. Box 83720 Boise, Idaho 83720-0098 Fax: 208-287-6700 gary.spackman@idwr.idaho.gov garrick.baxter@idwr.idaho.gov chris.bromley@idwr.idaho.gov	U.S. Mail [] Facsimile [] Overnight Mail [] Hand Delivery [] Email
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John A. Rosholt John K. Simpson Travis L. Thompson Barker, Rosholt & Simpson 113 Main Avenue W., Ste 303 Twin Falls, ID 83301-6167 jar@idahowaters.com jks@idahowaters.com tlt@idahowaters.com	[] U.S. Mail [] Facsimile [] Overnight Mail [] Hand Delivery [] Email
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