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**DISTRICT COURT OF THE STATE OF IDAHO
FOURTH JUDICIAL DISTRICT
ADA COUNTY**

IDAHO GROUND WATER APPROPRIATORS,
INC., BONNEVILLE-JEFFERSON GROUND
WATER DISTRICT, and BINGHAM GROUND
WATER DISTRICT,

Petitioners,

vs.

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

Respondents.

Case No. CV01-23-08187

**Declaration of Thomas J. Budge
in Support of Ground Water Districts' Brief
in Opposition to Department's Motion for
Attorney Fees and Intervenor's Motion for
Attorney Fees**

IN THE MATTER OF THE DISTRIBUTION OF
WATER TO VARIOUS WATER RIGHTS
HELD BY AND 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


I, Thomas J. Budge, declare the following:

1. I am an attorney representing Idaho Ground Water Appropriators, Inc. (“IGWA”) in the above-captioned matter.
2. The above-captioned matter is a petition for judicial review of an order in contested case, IDWR Docket No. CM-DC-2010-001, of the Idaho Department of Water Resources (“Department”), presided over by the Director of the Department (“Director”).
3. Attached hereto as Exhibit A are excerpts from an audio transcription of Recorded Pre-Hearing Conference held by the Director on April 28, 2023.

I declare under the penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.


DATED this 29th day of June, 2023.

RACINE OLSON, PLLP

By: 
Thomas J. Budge
Attorneys for IGWA

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of June, 2023, I served the foregoing document on the persons below via email or as otherwise indicated:


Thomas J. Budge

Clerk of the Court Ada County District Court	iCourt
Director Gary Spackman Garrick Baxter Sarah Tschohl Idaho Department of Water Resources 322 E Front St. Boise, ID 83720-0098	gary.spackman@idwr.idaho.gov garrick.baxter@idwr.idaho.gov sarah.tschohl@idwr.idaho.gov file@idwr.idaho.gov
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EXHIBIT A

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF WATER) Docket No.
TO VARIOUS WATER RIGHTS HELD BY OR FOR) CM-DC-2010-001
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)
_____)

TRANSCRIPT OF RECORDED PRE-HEARING CONFERENCE
APRIL 28, 2023

TRANSCRIBED BY:
JEFF LAMAR, C.S.R. No. 640
Notary Public

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APPEARANCES:

GARY SPACKMAN, IDWR DIRECTOR

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Also Present:

Sarah Tschohl
Mat Weaver
Kara Ferguson
Matt Anders
Alan Jackson
Don Terry
Jay Barlogi
Paul Arrington
Dave Colvin

1 (Beginning of audio file.)

2 DIRECTOR SPACKMAN: This is Gary Spackman. I'm
3 the Director of the Idaho Department of Water
4 Resources.

5 This is the time and place scheduled for a
6 pre-hearing conference regarding a hearing that has
7 been calendared for June 6th through 10th, 2023. And
8 the hearing was scheduled on my initiative. And the
9 purpose of the hearing is to present and receive
10 evidence regarding two orders I issued on April 21st,
11 2023.

12 And I will just refer to these. Well, let
13 me give the titles. One is what we refer to as a
14 Methodology Order or maybe in a longer version the
15 Fifth Amended Methodology Order, but its full title is
16 "Fifth Amended Final Order Regarding Methodology for
17 Determining Material Injury to Reasonable In-Season
18 Demand and Reasonable Carryover."

19 And the other order that was issued was
20 what we refer to as an As-Applied Order. And the title
21 of that particular document is "Final Order Regarding
22 April 2023 Forecast Supply (Methodology Step -- Steps 1
23 through 3)."

24 And so I think the first thing I need to do
25 is probably call roll and determine who's participating

1 particular Methodology Order -- so if within that
2 period of time the parties can find dates that are
3 acceptable to them for a hearing, I'm willing to
4 consider it. But that's the narrow window of time that
5 I'm willing to work within.

6 Now, let me go back to the arguments that
7 were presented regarding preparation and familiarity
8 with the information that's contained in the Fifth
9 Methodology Order.

10 The Department of Water Resources notified
11 all of the parties last fall that we would be reviewing
12 the information and presenting that. All of the
13 parties' expert witnesses were invited to attend, and
14 there were multiple presentations of that evidence, and
15 also some conclusions drawn by technical staff about
16 what -- what information would be reviewed in the
17 Methodology Order. There were also statements along
18 the way, and I made them personally, that I intended to
19 issue and amend the Methodology Order.

20 And so all of that information has been
21 presented, and the data, to the parties previously.
22 And the argument that there needs to be significant
23 additional time for preparation I think -- well, for
24 me, falls on unsympathetic ears.

25 And I have a responsibility to administer

1 water rights and to ensure that the senior water right
2 holders are made whole. And I intend to do that.

3 I also have an obligation, based on the
4 Court's orders, to not only predict what the water
5 supply will be, but to issue an order or to review that
6 information midseason, as well as at the time of need
7 to determine whether the seniors are receiving the
8 water that they're entitled to.

9 So I intend to hold a hearing the first
10 three weeks of June. If you can agree on a time, I
11 have some flexibility during that period of time. But
12 by the fourth week of June, I want to have completed
13 the hearing itself and have time to issue a decision.

14 And if the parties disagree with that
15 timing, if they think that I'm not affording them due
16 process, then I think there is an alternative route, if
17 the parties want to go there, to seek a stay from the
18 courts and establish in front of the Court that I'm not
19 affording the parties due process.

20 All right.

21 MR. BUDGE: Mr. Director.

22 MR. THOMPSON: I just have a comment, if I
23 might.

24 DIRECTOR SPACKMAN: Yeah. Well, Travis
25 Thompson.

1 DIRECTOR SPACKMAN: Because it's in front of me,
2 but I still have to review the information and make a
3 determination of whether there was a breach or not.

4 MR. THOMPSON: Yes.

5 DIRECTOR SPACKMAN: Yeah. Okay. All right.

6 Other matters?

7 All right. Let's conclude this -- the
8 formal pre-hearing conference.

9 (End of audio file.)

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Audio Transcription

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REPORTER'S CERTIFICATE

I, JEFF LaMAR, CSR No. 640, Certified Shorthand Reporter, certify:

That the audio recording of the proceedings was transcribed by me or under my direction.

That the foregoing is a true and correct transcription of all testimony given, to the best of my ability.

I further certify that I am not a relative or employee of any attorney or party, nor am I financially interested in the action.

IN WITNESS WHEREOF, I set my hand and seal this 3rd day of May, 2023.



JEFF LaMAR, CSR NO. 640
Notary Public
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My commission expires December 30, 2023