

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

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|---|---|------------------------|
| IDAHO GROUND WATER                        | ) |                        |
| APPROPRIATORS, INC.,                      | ) | Case No. CV01-23-13173 |
| Petitioner,                               | ) |                        |
| vs.                                       | ) |                        |
| IDAHO DEPARTMENT OF WATER                 | ) |                        |
| RESOURCES, and GARY SPACKMAN in           | ) |                        |
| his capacity as the Director of the Idaho | ) |                        |
| Department of Water Resources.            | ) |                        |
| Respondents,                              | ) |                        |
| and                                       | ) |                        |
| AMERICAN FALLS RESERVOIR                  | ) |                        |
| DISTRICT #2, MINIDOKA IRRIGATION          | ) |                        |
| DISTRICT, A&B IRRIGATION DISTRICT,        | ) |                        |
| BURLEY IRRIGATION DISTRICT,               | ) |                        |
| MILNER IRRIGATION DISTRICT, NORTH         | ) |                        |
| SIDE CANAL COMPANY, TWIN FALLS            | ) |                        |
| CANAL COMPANY, CITY OF                    | ) |                        |
| POCATELLO, CITY OF BLISS, CITY OF         | ) |                        |
| BURLEY, CITY OF CAREY, CITY OF            | ) |                        |
| DECLO, CITY OF DIETRICH, CITY OF          | ) |                        |
| GOODING, CITY OF HAZELTON, CITY           | ) |                        |
| OF HEYBURN, CITY OF JEROME, CITY          | ) |                        |
| OF PAUL, CITY OF RICHFIELD, CITY OF       | ) |                        |
| RUPERT, CITY OF SHOSHONE, CITY OF         | ) |                        |
| WENDELL, BONNEVILLE-JEFFERSON             | ) |                        |
| GROUND WATER DISTRICT, and                | ) |                        |
| BINGHAM GROUND WATER DISTRICT,            | ) |                        |
| Intervenors.                              | ) |                        |
|   | ) |                        |
| 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                  | ) |                        |

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BINGHAM GROUNDWATER USERS RESPONSE BRIEF

Judicial Review from the Idaho Department of Water Resources  
Gary D. Spackman, Director  
Honorable Eric J. Wildman, Presiding

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(see service page for remaining counsel)

## Argument

Bingham Groundwater District, who is also a member of Idaho Ground Water Appropriators, Inc. (“IGWA”) joins in the briefing submitted by IGWA, adopts IGWA’s arguments as its own, and offers a brief supplemental argument. IGWA does a great job in its briefing to lay out all the different procedural and substantive violations. The overarching question at the center of these violations is “why now?”. The department had the opportunity to run the transient model for years. Why would the department ignore IGWA’s plea in the fall of 2022 for a hearing if the methodology order was going to change? Why, after releasing recommendations that did not include a not switch to Transient (R. 2866), would the department then surprise all parties a few short months later with a new “emergency” methodology order using transient modeling? The limited data and questioning of Department employees produces data that the department has had for years and does not explain the emergency. The department has attempted to answer why, but has not answered “why now?”.

In the Spring of 2023, shortly before the 5<sup>th</sup> methodology order was released, Groundwater users engaged in settlement negotiations with the Surface Water Coalition, and the department was a participant in those negotiations. Groundwater users attempted to submit evidence that those negotiations influenced the methodology order, and that the methodology order could be used to influence negotiations. (Tr. Vol. IV, 1029:9-1033:5.) Those records were not admitted into the record. Because these settlement negotiations centered around the same issues with the directors interpretation of the settlement agreement outlined in CV01-23-07983—also before this court—groundwater users feel that the changes in the methodology order were in direct response to their assertion that the director made the settlement agreement worse than curtailment. Why bypass all hearings and due process to suddenly make curtailment ten times worse that it has ever been? why now? Absent some reason, an “emergency” order is not warranted, and groundwater users are left to wonder.

Dated August 21, 2023

Dylan Anderson Law, PLLC

\_\_\_\_\_/s/ Dylan Anderson\_\_\_\_\_

Dylan Anderson,

*Attorney for Bingham Groundwater District*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19 of January, 2024, I caused to be filed a true and correct copy of the foregoing document via iCourt E-File and Serve, and upon such filing, the following parties were served via electronic mail:

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